BK 2198 PG 659 - 717 (59) DOC# 10021369
This Document eRecorded: 01/15/2020 03:51:51 PM
Fee: $202.00 Tax: $0.00
Franklin County, North Carolina
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# Declaration of Covenants, Conditions and Restrictions

# For

# Mason Oaks Community Association, Inc.

## THIS DOCUMENT REGULATES OR PROHIBITS

## THE DISPLAY OF POLITICAL SIGNS

Submitted electronically by "Nelson Mullins LLP"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Franklin County Register of Deeds.

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**EXHIBITS**

Exhibit A Description of the Property Subject to this Declaration

# Declaration of Covenants, Conditions and Restrictions

# For

# Mason Oaks Community Association, Inc.

This Declaration of Covenants, Conditions and Restrictions (the "Declaration"), is made on the date set forth on the signature page below by **GLEN OAKS-SOUTH, LLC,** a Maryland limited liability company (the **"Declarant"**).

## Explanatory Statement

The Declarant is the fee simple owner of all of the real property located in Wake Forest Township, Franklin County, North Carolina, that is described on **Exhibit A** to this Declaration, which is more particularly defined in Article 1 as the "**Development**.

Single family residential homes, consisting of 268 detached homes, are intended to be constructed on the Lots in the Development. Certain common areas referred to in this Declaration as the "Common Area" are intended for the use and benefit of the Owners and residents of the Lots and such other parties as more particularly set forth in this Declaration.

A not for profit corporation known as Mason Oaks Community Association, Inc., (the "**Association**") has been established to own and/or otherwise be responsible for the Common Area and to exercise the rights and duties of the Association under this Declaration and the other Governing Documents. Each Owner of a Lot shall be a member of the Association. The purposes of this Declaration are, among other things, to establish covenants for the operation, maintenance, repair and replacement of the Common Area and for the payment of the costs of the same, and to establish covenants, conditions, easements, and restrictions applicable to the Owners of Lots and the Development.

In the event of any conflict between the foregoing Explanatory Statement and any other provision of this Declaration, such other provision shall supersede and control over the Explanatory Statement.

NOW, THEREFORE, the Declarant hereby grants and declares that the Development, including all Lots, shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, conditions, restrictions, easements, equitable servitudes and other provisions set forth in this Declaration, which shall run with the land and be binding on all parties having any right, title or interest in all or any portion of the Development, and any other real property annexed within the jurisdiction of the Association in accordance with Article 2 below, their heirs, personal representatives, successors, transferees and assigns, and which shall inure to the benefit of the Declarant and the Owners.

## ARTICLE 1
## DEFINITIONS

Unless the context shall plainly require otherwise, the following terms when used in this Declaration shall have the following meanings:

***Section 1.1*** ***"Act"*** means the North Carolina Planned Community Act, as contained in Chapter 47F of the North Carolina General Statutes (or as contained in any successor portion of the North Carolina General Statutes), as the same exists from time to time.

***Section 1.2*** ***"Annual Assessment"*** shall mean and refer to the assessment levied against Lots subject to assessment on an annual basis to fund the Common Expenses, but not including Special Assessments.

***Section 1.3*** ***"Application"*** has the meaning set forth in Section 9.8 of this Declaration.

***Section 1.4*** ***"Articles of Incorporation"*** shall mean and refer to the Articles of Incorporation for the Association filed or to be filed with the Office of the Secretary of State of North Carolina, as the same may be amended from time to time.

***Section 1.5*** ***"Assessments"*** shall mean and refer collectively to any Annual Assessment, Special Assessment, and all other fees and charges, including all installments thereof, as may be levied by the Association in accordance with this Declaration.

***Section 1.6*** ***"Association"*** shall mean and refer to Mason Oaks Community Association, Inc., a not-for-profit North Carolina corporation, its successors and assigns.

***Section 1.7*** ***"Association Codes"*** means and refers to the rules, regulations, standards and guidelines as may be promulgated and amended from time to time in accordance with Article 6 of this Declaration and which are, though unrecorded, as binding and as enforceable as this Declaration.

***Section 1.8*** ***"Board of Directors" or "Board"*** shall mean and refer to the Board of Directors of the Association, the governing body for the Association as more particularly described in the Bylaws.

***Section 1.9*** ***"Builder"*** means any Person who purchases one (1) or more Lots from Declarant for the purpose of constructing dwellings thereon for later sale to consumers in said Builder's ordinary course of business. Any Person shall cease to be considered a Builder with respect to a Lot immediately upon occupancy of and residing in the dwelling for residential purposes, notwithstanding that such person originally was recognized as a Builder. For purposes of this Declaration, a Builder is not an affiliate of Declarant.

***Section 1.10*** ***"Bylaws"*** shall mean and refer to the Bylaws for the Association, as may be amended from time to time.

***Section 1.11*** ***"Common Area"*** shall mean and refer to all real property owned or leased by the Association and all improvements and facilities located upon such property that will serve the

Owners and residents of the Development or such other parties as provided pursuant to this Declaration which may include, but are not necessarily limited to, storm water management, open space and parkland parcels; clubhouse and swimming pool; entry monument(s); provided, however, that no portion of any Lot shall be considered part of the Common Area and, except as expressly required or permitted in this Declaration, the Association shall not maintain Lots.

***Section 1.12*** ***"Common Expenses"*** shall mean and refer to the actual and estimated expenses of operating the Association, including, without limitation, a reasonable reserve for the maintenance, repair, and replacement of the Common Area in accordance with Article 8 below, all as may be found to be necessary or appropriate by the Board of Directors pursuant to the Governing Documents. Common Expenses shall not include the Declarant's costs to acquire and develop the Development.

***Section 1.13*** ***"Declarant"*** shall mean and refer to Glen Oaks-South, LLC, a Maryland limited liability company, and any transferee or successor to special declarant rights pursuant to the Act.

***Section 1.14*** ***"Declarant Control Period"*** shall mean and refer to that period commencing on the date this Declaration is recorded among the Land Records and ending on the earlier of (a) the date that is thirty (30) years after the date this Declaration is recorded among the Land Records, or (b) the later of (x) 240 days or (y) the first annual meeting, in each case, after the date on which one hundred (100%) percent of the Lots have been conveyed to Owners other than a Builder. All rights of the Declarant that this Declaration and other Governing Documents provide may be exercised during the Declarant Control Period are independent of the Board's authority and the Declarant's right to appoint members to the Board. Any rights that this Declaration or other Governing Documents provide may be exercised during the Declarant Control Period may be so exercised by the Declarant for the duration of the Declarant Control Period regardless of whether control of the Board of Directors has transitioned to homeowners.

***Section 1.15*** ***"Design Guidelines"*** has the meaning set forth in Section 9.11 of this Declaration.

***Section 1.16*** ***"Design Review Committee"*** means that committee which may be established pursuant to Article 9 of this Declaration.

***Section 1.17*** ***"Development"*** shall mean and refer to the real property described on **Exhibit A** to this Declaration and all improvements and appurtenances thereto, and such additions thereto, if any, as may hereafter be annexed within the jurisdiction of the Association pursuant to Article 2 of this Declaration.

***Section 1.18*** ***"Development Plans"*** shall mean and refer collectively to all zoning plans, project plans, preliminary plans, site plans, subdivision plats and/or other regulatory plans for the Development as may have been or shall be reviewed and approved by the applicable governmental authorities, including all amendments, modifications, extensions and supplements as may be made from time to time.

***Section 1.19*** ***"Director"*** shall mean and refer to a member of the Board of Directors.

***Section 1.20*** ***"Eligible Mortgagee" or "Mortgagee"*** shall mean and refer to a holder, insurer or guarantor of a First Mortgage on a Lot who has submitted a written request with a valid address for notice from the Association pursuant to Sections 13.14(a) and (b), with respect to the exercise of self-help as provided in Section 13.5, casualty losses as provided for in Section 13.12, condemnation or eminent domain proceedings as provided for in Section 13.13, and amendments to the Association documents or other significant matters which would affect the interests of such Mortgagee.

***Section 1.21*** ***"Emergency Escape and Rescue Easement Area"*** means the areas designated on the Site Plan or Subdivision Plat for emergency ingress and egress required to comply with Section R310 of the North Carolina Residential Code.

***Section 1.22*** ***"First Mortgage"*** shall mean and refer to a Mortgage recorded against any Lot that has priority over any other Mortgages recorded against such Lot.

***Section 1.23*** ***"Governing Documents"*** shall mean and refer to this Declaration, the Articles of Incorporation, the Bylaws, Design Guidelines, the Association Codes, and any rules and regulations of the Association, as any of the foregoing may be amended from time to time.

***Section 1.24*** ***"Improvements"*** has the meaning set forth in Section 9.1 of this Declaration.

***Section 1.25*** ***"Land Records"*** shall mean and refer to the Register of Deeds Office for Franklin County, North Carolina or other applicable governmental agency.

***Section 1.26*** ***"Lot"*** shall mean and refer to each lot within the Development that consists of or is intended for the construction of a detached dwelling designed for use and occupancy by a single household, regardless of whether such dwelling has yet been constructed, and all improvements on and appurtenances to such lot.

***Section 1.27*** ***"Mortgage"*** shall mean and refer to any deed of trust, mortgage, and other security instrument constituting a lien against a Lot, together with all modifications, consolidations, extensions, and replacements of the same made from time to time, provided that any such security instrument has been recorded among the Land Records or in such other place as is, under applicable law, required for such instrument to give constructive notice of the matters set forth therein.

***Section 1.28*** ***"Mortgagee"*** shall mean and refer to the holder or beneficiary of any recorded Mortgage (whether or not an Institutional Mortgagee). The term **"Institutional Mortgagee"** shall include banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, mortgage companies, Fannie Mae, Government National Mortgage Association (**"GNMA"**), Federal Home Loan Mortgage Corporation (**"FHLMC"**), all corporations and any agency or department of the United States Government or of any state or municipal government, or any other organization or entity which has a security interest in any Lot. In the event any mortgage is insured by the Federal Housing Administration (**"FHA"**) or guaranteed by the Department of Veterans Affairs (**"VA"**), then as to such mortgage the expressions "Mortgagee" and "Institutional Mortgagee" include the FHA or the VA as the circumstances may require, acting, respectively,

through the Federal Housing Commission and the Secretary of Veterans Affairs or through other duly authorized agents.

***Section 1.29*** ***"Owner"*** shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Development, but excluding those having such interest merely as security for the performance of an obligation, provided, however, that the holder of a security interest in all or any portion of a Lot shall be an Owner to the extent that such holder acquires title to such Lot as a result of a foreclosure proceeding or by a deed in lieu of foreclosure.

***Section 1.30*** ***"Review Entity"*** has the meaning set forth in Section 9.4 of this Declaration.

***Section 1.31*** ***"Special Assessment"*** shall mean and refer to any assessment levied by the Association in accordance with Section 5.5 of this Declaration.

## ARTICLE 2
## PROPERTY SUBJECT TO THIS DECLARATION; DECLARANT'S RIGHT OF ANNEXATION

***Section 2.1*** ***Subject Property.*** The real property described on **Exhibit A** to this Declaration and all improvements and appurtenances thereto are and shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration.

***Section 2.2*** ***Additional Annexations.***

(a) In addition to the real property which is made subject to this Declaration pursuant to Section 2.1, any real property in the vicinity of the real property subject to this Declaration may be annexed within the jurisdiction of the Association by the Declarant during the Declarant Control Period and made subject to this Declaration, without the consent of any Owner or any other person or entity other than the fee owner of such real property. The scheme of this Declaration shall not, however, be extended to include any additional real property unless and until the same is annexed within the jurisdiction of the Association by the recordation of a supplementary declaration as provided in this Section. After the Declarant Control Period, annexations of real property within the jurisdiction of the Association shall require the consent of Owners entitled to cast not less than sixty-seven percent (67%) of the total votes in the Association.

(b) Any annexations made pursuant to this Article or otherwise shall be made by recording a supplementary declaration among the Land Records, which supplementary declaration shall extend the scheme of this Declaration to such annexed property. Any supplementary declaration made pursuant to the provisions of this Article or otherwise may contain such complementary or supplemental additions and modifications to the covenants, conditions, restrictions, easements and other provisions set forth in this Declaration as may be considered necessary by the maker of such supplementary declaration to reflect the different character or use, if any, of the annexed property, including, without limitation, a partial or complete waiver of all or any portion of such covenants, conditions, restrictions, easements and/or other provisions with respect to the annexed property or additional or modified covenants, conditions, restrictions,

easements or other provisions that are more or less restrictive than those set forth in this Declaration.

## ARTICLE 3
## PROPERTY RIGHTS

***Section 3.1 Owners' Easements of Enjoyment.*** Every Owner of a Lot shall have a non-exclusive right and easement of use, access and enjoyment in and to the Common Area, which right and easement shall be appurtenant to and pass with the title to every Lot, subject to the following:

(a) the rights and obligations set forth in the Governing Documents, as amended from time to time, and any other covenants, conditions, restrictions, easements or reserved rights relating to the Common Area or the Lots contained in any record plat of subdivision for the Development, the Development Plans, or in any deed conveying Common Area to the Association and all other matters of record affecting the Development;

(b) the right of the Association to charge reasonable and uniform admission and other fees to Owners and their household members, guests and lessees for the use of the Common Area and any facilities situated thereon to the extent that the use of such Common Area or facilities are not otherwise intended to be funded by Assessments;

(c) the right of the Association to suspend an Owner's voting rights and rights to use the Common Area (i) for any period during which any Assessment against such Owner's Lot remains unpaid, and (ii) after notice and an opportunity for a hearing, for any infraction of the Association's published rules and regulations; provided, however, that the obligation of such Owner to pay Assessments shall continue unabated during such period of suspension of voting rights or right to utilize the Common Area;

(d) the right of the Association to limit the number of guests of Owners utilizing the Common Area;

(e) the rights of the Declarant and the Board of Directors to establish Association Codes and other rules and regulations pertaining to the use of the Common Area;

(f) the rights of the Association, the Declarant, utility companies and other Owners with respect to the easements established by this Declaration;

(g) the right of the Association to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosures, provided, however, that the same are in conformity with the other provisions of this Declaration;

(h) the rights of the Declarant, as more fully set forth in Article 7 and elsewhere in this Declaration, to grant easements, to utilize reserved rights and easements, and otherwise to utilize the Common Area as it deems appropriate in connection with the development of the Development;

(i) the right of the Association, acting by and through its Board of Directors, and with the consent of the Declarant during the Declarant Control Period, to grant easements,

licenses or other rights of use of the Common Area to persons or entities that are not Owners for such consideration and on such terms and conditions as the Board of Directors may from time to time consider appropriate or in the interest of the Association or the Development;

(j) the right of the Association to be the lessee of all or any portion of the Common Area and the right of the Association to enforce the terms of the lease with respect to such Common Area against the Owners and their guests, lessees and invitees;

(k) the right of the Association, acting by and through its Board of Directors, to transfer or convey portions of the Common Area for purposes of adjusting the boundary lines of the Common Area, provided, however, that such adjustment is otherwise in conformance with applicable law, local zoning ordinances, governmental guidelines, or restrictions;

(l) the right of the Association or the Declarant to temporarily restrict access and use of the Common Area to some or all of the Owners, lessees and residents of the Development; and

(m) such other rights of the Declarant and the Association that are consistent with the Governing Documents.

***Section 3.2 Limitations on Association.*** Despite any provision of this Declaration to the contrary:

(a) The Association shall have no right to suspend the right of any Owner to use any roadways, sidewalks, or walkways located within the Common Area for the intended vehicular and pedestrian ingress and egress to and from such Owner's Lot.

(b) The Association shall have no right to suspend any easement over the Common Area for storm water drainage, electrical energy, water, sanitary sewer, natural gas, CATV or similar service, telecommunications service or similar utilities and services to the Lots.

***Section 3.3 Delegation of Use.*** Any Owner of a Lot may delegate, consistent with the Governing Documents, such Owner's right of enjoyment to the Common Area to the members of such Owner's family and such Owner's tenants and social invitees.

***Section 3.4 Disclaimers Regarding Common Area.*** Except as stated in any plat recorded in the Land Records, no representations or warranties are made to any Owner, resident, or any other party regarding the establishment, features, maintenance, use, operation, or continued operation of any Common Area including, without limitation, any amenities included within the Common Area or planned to be included within the Common Area. All plans for any amenities and other features of the Common Area are subject to change at any time and from time to time. Neither the Declarant, any residential builder, nor any of their respective officers, directors, members, agents, or affiliates shall have any liability with respect to the construction, features or availability of any Common Area. All Common Areas shall be conveyed by the Declarant to the Association in a finished, well-maintained condition.

## ARTICLE 4
## MEMBERSHIP AND VOTING RIGHTS

***Section 4.1*** ***Membership.*** Each Owner of a Lot shall be a member of the Association. Membership in the Association shall be appurtenant to and may not be separated from an Owner's ownership of a Lot.

***Section 4.2*** ***Parties Excluded from Membership.*** The following shall not be members of the Association:

(a) Any person or entity that holds an interest in all or any portion of a Lot as security for the performance of an obligation shall not be a member of the Association by virtue of such security interest.

(b) No resident of a Lot that is not an Owner of a Lot shall be a member of the Association.

***Section 4.3*** ***Voting Rights***. During the Declarant Control Period, Declarant shall have the exclusive right and power to appoint and remove the officers of the Association and members of the Board without a vote of the Owners. As to other matters, each Owner shall have those voting rights established in this Declaration, which may be different for different classes of membership. The Association shall have two (2) classes of voting rights:

(a) Class A. Class A Members are all Owners other than the Declarant and shall be entitled to one (1) vote for each Lot owned by the Class A Member. The Owner of each Lot shall be entitled to cast one (1) vote in matters of the Association that are voted upon by the Owners. The vote for each Lot shall be exercised as the parties comprising the Owner of such Lot may determine (i.e., if the Owner consists of more than one person or entity), but in no event shall more than one (1) vote be cast with respect to any Lot.

(b) Class B. The Class B Member shall be the Declarant and shall entitled to ten (10) votes for each Lot owned by the Class B Member. The Class B membership shall cease and be converted to Class A membership on the expiration of the Declarant Control Period.

(c) Eighty Percent Threshold. Notwithstanding anything herein to the contrary, for the sole purpose of voting relating to any proposed amendment of the Declaration during the Declarant Control period, Declarant shall, at all times during the Declarant Control Period, be deemed to have no less than an eighty percent (80%) voting interest in the Association.

## ARTICLE 5
## COVENANTS FOR ASSESSMENTS

***Section 5.1 Creation of Lien and Personal Obligation for Assessments.*** There are hereby created Assessments for Common Expenses as may be from time to time specifically authorized by the Board of Directors to be commenced at the time and in the manner set forth in this Article 5. By acceptance of a deed to any Lot or other transfer of ownership, whether or not it shall be so expressed in such deed or other instrument of transfer, each Owner of a Lot subject to Assessments is deemed to covenant and agree to pay to the Association: Annual Assessments, Special Assessments, capital contributions pursuant to Section 5.4, and all other Assessments as may be levied by the Association in accordance with this Declaration. Each such Assessment, together with interest, costs, late fees and reasonable attorneys' fees, shall also be the personal obligation of the Owner at the time when the Assessment became due. The Assessments, together with interest, costs, late fees and reasonable attorneys' fees, shall also be a charge on the Lot (including all improvements therein) and shall be a continuing lien upon the Lot against which each such Assessment is made. Notwithstanding any other provision in this Declaration, the Declarant, or its predecessors or affiliates may exempt any Builder from all or any portion of any of the Assessments in its contract with such Builder or otherwise. If a Builder is granted such an exemption, the Lots such Builder owns are not Lots subject to Assessment until such time as they are transferred to a non-Builder owner.

***Section 5.2 Purpose of Assessments.***

(a) Assessments levied by the Association shall be used to promote the recreation, health and welfare of the residents in the Development and may include charges for (i) the operation, improvement, maintenance, repair and replacement of the Common Area, (ii) taxes, assessments, and utility services for the Common Area, (iii) management fees and administration expenses, (iv) water and sewer service to all or any portion of the Development, (v) costs incurred by the Association in connection with the maintenance, repair or replacement of any portions of a Lot that the Association elects or agrees to maintain, (vi) insurance maintained by the Association, (vii) payment of charges under any easement, license or other agreement to which the Association is a party, and (viii) all other costs and expenses incurred by the Association in the proper conduct of its activities, including, without limitation, reserves for replacements or contingencies or charges accruing under any cross-easement or cost-sharing agreement affecting the Development. Assessments may also be used for the operation, maintenance, repair and replacement of any property or facilities serving or appurtenant to the Development which the Association is obligated or elects to maintain or with respect to which the Association is obligated to make a maintenance payment, whether or not such property or facilities are owned by the Association or are located within the Development.

(b) Assessments levied by the Association may also be used for maintenance, repair and replacement (including the funding of reserves) of any storm water management facilities within the Development, including, without limitation, drainage pipes, infiltration trenches, ponds, basins, swales, berms, out-flow control devices, drainage areas, filters, inlets, oil/grit separators and underground facilities, if any, whether or not such storm water management facilities are located within the Development, as long as such storm water management facilities are designed to benefit or serve any portion of the Development, or are required or intended to be

maintained by the Association pursuant to any easement, agreement or the direction of any governmental authority or agency. The Association shall not refuse to accept the conveyance of any such facilities from the Declarant or its affiliates provided that such facilities are conveyed in a completed, well-maintained condition. Such storm water management facilities may also benefit property not within the jurisdiction of the Association and the maintenance of such facilities may be set forth in a cross-easement or other agreement, in which event the Association shall maintain the facilities pursuant to such agreement.

***Section 5.3 Annual Assessments; Budgets.***

(a) Until the first day of the fiscal year of the Association immediately following the first conveyance of a Lot to a residential homeowner, Assessments shall be imposed in amounts established by the Declarant in its sole discretion. Thereafter, the Board of Directors shall from time to time set the Assessments in amounts sufficient to meet the Common Expenses of the Association . Without limiting the generality of the foregoing, the Association shall levy and collect Assessments in sufficient amounts to (i) maintain and insure the Common Area in accordance with sound property management standards, and (ii) establish necessary reserves for the future repair and replacement of any capital improvements within the Common Area. The Board of Directors shall determine the amount of Assessments before the beginning of each fiscal year in connection with the preparation of the Association's annual budget, and may do so at more frequent intervals should circumstances so require. Installments of Annual Assessments may be levied and collected on a monthly, quarterly, semi-annual or annual basis and the Board may determine, at its discretion, to round each Owner's allocable share of Common Expenses to the nearest half dollar or whole dollar amount. Installments of any Annual Assessment levied by the Association may be prepaid without premium or penalty.

(b) The Board of Directors shall cause to be prepared and submitted to the Owners the proposed annual budget for the Association at least thirty (30) days prior to the budget's adoption. The proposed budget and notice of the Board meeting at which the budget will be considered for adoption may be sent by electronic transmission, by posting on the Association's home page website, by including the budget and meeting notice in the Association's newsletter, or by such other means as may be permitted under applicable law. The budget shall include the estimated costs of operating the Association during the coming fiscal year and any reserve fund in accordance with a reserve fund budget separately prepared by the Board of Directors pursuant to Section 5.12 below. The budget and amendments thereto shall be approved by a majority vote of the Board of Directors at a meeting of the Board, and any amendments to a previously adopted current fiscal year budgeted expenditure shall be approved by the Board. Any budget, or amendment thereto, shall require approval by the Declarant during the Declarant Control Period.

(c) Upon approval of any budget or amendment thereto, the Board of Directors shall thereafter send to each Owner a copy of the approved budget or budget amendment which sets forth the amount of Common Expenses payable by each Owner pursuant to §47F-3-103 of the Act. Copies of any budget or amendment thereto may be provided to Owners by electronic transmission in accordance with and subject to the procedures and requirements of applicable law. The budget shall constitute the basis for determining each Owner's contribution for Common Expenses. The failure or delay of the Board of Directors to prepare or adopt an annual budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner's obligation to

pay its allocable share of Common Expenses whenever the same shall be determined. In the absence of any annual budget, each Owner shall continue to pay its allocable share of Common Expenses at the then existing rate established for the previous fiscal period until the new payment is established. All budget figures and other information set forth in any proposed annual budget prepared by the management agent, including, without limitation, estimated Common Expenses, income and Assessments, including any reserve analysis and projected life expectancy of reserve items, are based on estimates prepared by the management agent or other qualified independent consultant, and shall not be deemed to be part of any contract, or to constitute the basis of the bargain, between the Declarant and any Lot purchaser, nor shall such budget figures or other information be deemed any representation or warranty whatsoever, whether express or implied, regarding the level of Assessments or any other matter, and neither the Board of Directors nor the Declarant has authorized any other party to make any such representation or warranty, and such other parties have no legal authority to make any such representation or warranty. All budget figures are estimates and neither the management agent, the Declarant nor the Board of Directors can be certain that sufficient funds have been budgeted to cover all Common Expenses that may be incurred. Because actual expenditures may differ from estimated expenditures, due to possible changes in the future expenses of the Association and other variable factors, such estimates are not intended nor shall they be considered as guarantees of any kind whatsoever.

(d) Subject to the foregoing provisions of this Section 5.3, all budgets approved by the Board shall become effective unless a special meeting of the Association is duly held and at such special meeting the budget is disapproved by a vote of Owners, in person or by proxy, entitled to cast not less than sixty-seven percent (67%) of the total votes of all Owners. Notwithstanding the foregoing, if the Owners disapprove the budget or the Board of Directors fails for any reason to determine the budget for any fiscal year of the Association, then and until such time as a budget shall have been determined as provided in this Declaration, the budget in effect for the immediately preceding fiscal year shall continue for the succeeding fiscal year.

***Section 5.4 Capital Contributions.***

(a) An initial working capital contribution shall be payable for each Lot in an amount determined by the Board from time to time. Such initial working capital contribution shall be payable by the first non-builder Owner to take title to each constructed Lot at the time of closing with such Owner. Such initial working capital contributions are established to assist with funding the initial operation of the Association or for such other purposes relating to the Association and the Development as may be determined by the Board of Directors.

(b) Initial working capital contributions shall be in addition to other Assessments, shall not be considered an advance payment of Assessments, and are not refundable.

***Section 5.5 Special Assessments.*** In addition to the Annual Assessments authorized by this Article, the Board of Directors may levy in any fiscal year a Special Assessment or Special Assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or extraordinary repair or maintenance of capital improvements located upon or forming a part of the Common Area or other portions of the Development that the Association is obligated or elects to maintain, including any fixtures or personal property related thereto, or for such other purposes as the Board of Directors may consider appropriate in its reasonable discretion,

including, without limitation, extraordinary nonrecurring expenses caused by storms or other weather conditions. Unless otherwise expressly agreed to by the Declarant in writing, any special assessment imposed pursuant to this Section 5.5 shall be approved by the Declarant during the Declarant Control Period.

***Section 5.6 Assessment Rates.*** The Board of Directors shall establish Annual Assessments based on Common Expenses, as determined by the Board of Directors in its sole discretion. The Board may from time to time establish different levels and/or categories of Assessments including, but not limited to, general levels of Assessments that are payable by all Owners and supplemental levels of Assessments that are payable only by certain Owners that benefit from certain expense items, such as expenses for landscaping or any other maintenance or services performed by or on behalf of the Association for some but not all Lots, or such other items as may from time to time be determined by the Board. Each Owner shall pay Assessments at the rate applicable to such Owner and its Lot as determined from time to time by the Board of Directors in accordance with this Declaration.

***Section 5.7 Declarant Exemption from Assessments.*** The Declarant shall not be obligated to pay any Assessments for any Lots owned by the Declarant nor any other charges or expenses of the Association. Except as may otherwise be provided in a separate contract between the Declarant and a Builder, the Declarant shall have no obligation to fund any reserves or pay for any operating deficit or other deficits of the Association. To the extent that the Declarant elects, in its sole discretion, or as otherwise obligated, to pay any Assessments, deficits, reserves or other charges or expenses of the Association, no such payment shall be deemed a waiver of the Declarant's exemption from the payment of any other Assessments, deficits, reserves or other charges or expenses of the Association.

***Section 5.8 Association Obligation to Reimburse the Declarant.*** The Association shall be responsible for reimbursing the Declarant and/or the Declarant's affiliates if significant unanticipated expenses are incurred due to unforeseen changes in Common Area design and significantly impacts operation expenses, which may initiate the advancement of funds. The Declarant, in its sole discretion, will make the determination as to whether the Association shall be responsible for reimbursing, in part or in full, for such unanticipated expenses. Such reimbursements shall be included as part of the Assessments of the Association payable by the Owners. The Declarant and the Declarant's affiliates, as applicable, shall have a lien and security interest in all real and personal property of the Association to secure payment of such sums. The Association shall promptly execute and deliver such notes, agreements and other instruments as may be requested by the Declarant to confirm the Association's obligations under this Section. Nothing in this Section or otherwise shall be deemed to obligate the Declarant or any affiliate of the Declarant to fund any deficits or other expenses of the Association, and any agreement of the Declarant or any affiliate of the Declarant to do so shall be in its sole discretion.

***Section 5.9 Commencement of Annual Assessments; Due Dates; Certificate of Payment.*** Except as otherwise provided in this Declaration, the Annual Assessments provided for in this Declaration shall commence as to each Lot on the date that such Lot, improved with a home completed for occupancy, is initially conveyed by its builder or developer to another Owner. The first Annual Assessment for a Lot shall be pro-rated as of the date of closing on the Lot. Upon adoption of a new fiscal year budget as provided in Section 5.3, written notice of the new Annual

Assessment shall be sent to every Owner. The due dates shall be established by the Board of Directors. The Association shall, upon request and for a reasonable charge, furnish to an Owner or other interested party a certificate signed by an officer of the Association setting forth whether the Assessments for any specified Lot have been paid. A duly executed certificate of the Association setting forth the status of Assessments on a Lot shall be binding on the Association as of the date of its issuance.

***Section 5.10 Effect of Non-Payment of Assessments; Remedies of the Association.*** Any Assessment not paid within thirty (30) days after the due date shall bear charges not to exceed the greater of twenty dollars ($20.00) per month or interest at the rate of ten percent (10%) per annum. The Association may also charge a late fee in an amount not to exceed any limit established under applicable law, against any Owner that is more than fifteen (15) days delinquent in the payment of any Assessment. Additionally, the entire balance of the unpaid Assessment for the remainder of the fiscal year may be accelerated at the option of the Board of Directors and be declared due, payable and collectible in the same manner as the delinquent portion of such Assessment. The Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot (and all improvements therein) in accordance with the laws of the State of North Carolina. No Owner may waive or otherwise escape liability for payment of Assessments by non-use of the Common Area or abandonment of a Lot. An Owner shall also be obligated to pay all attorneys' fees, court costs and administrative costs incurred in connection with the collection of delinquent Assessments or other charges due by such party under this Declaration. This Section shall not be deemed to limit or waive, and shall be without prejudice to, any and all rights, remedies, or recourses as may be available to the Association for non-payment of Assessments.

***Section 5.11 Subordination of Lien to First Mortgages.*** The lien of the Assessments provided for in this Declaration shall be subordinate to the lien of any First Mortgage, subject to applicable law. The sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to a First Mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer, except as provided by applicable law and except for liens or claims for a pro-rata share of such Assessments resulting from a pro-rata reallocation of such Assessments to all Lots, including the mortgaged Lot. No sale or transfer shall relieve the Owner of such Lot from liability for its share of Assessments thereafter becoming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any First Mortgage on any Lot (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder of the First Mortgage (or the indebtedness secured thereby) shall join in the execution of such amendment.

***Section 5.12 Reserve Fund Budget and Contribution.***

(a) The Board of Directors shall annually prepare a reserve fund budget, which may be based on a reserve study prepared by a qualified independent consultant, and which shall take into account the number and nature of the replaceable assets of the Association, the expected life of each asset, and the expected repair or replacement cost of each asset. The reserve fund budget shall establish a reserve for the substantial periodic repair and replacement of the Common Area and any other improvements which the Association maintains or for which it is required to make a maintenance payment, including, without limitation, reserves for the routine inspection,

maintenance and long term repair of any storm water management facilities serving the Development and maintained by the Association. The Board of Directors shall include in the Common Expense budget of the Association such reserves that the Board of Directors shall deem appropriate and such amounts shall be included as part of the Annual Assessments, if applicable during any particular fiscal year. Reserves may also be maintained for operating contingencies and insurance deductibles. Notwithstanding the foregoing or any other provisions of this Declaration or other Governing Documents, the Board may, in its discretion, determine to curtail or delay reserve contributions until a sufficient number of Lots have been constructed and are contributing to Assessments, or for such other reasons that the Board may determine. A copy of any reserve fund budget shall be distributed to each Owner in the same manner as the operating budget.

(b) The proportional interest of any Owner in any reserve fund established under this Article 5 shall be considered appurtenant to such Owner's Lot and shall not be separately withdrawn, assigned, transferred or otherwise separated from the Lot.

## ARTICLE 6
## ASSOCIATION CODES

***Section 6.1 Objectives and Scope of Association Codes.*** The Declarant and the Board of Directors may adopt as Association Codes such additional use restrictions and protective covenants related specifically to the use of the Lots or the Common Area that are consistent with this Declaration and the Development Plans and as may be deemed necessary or appropriate by the Declarant or the Board of Directors in their reasonable discretion, but subject to their fiduciary responsibilities to the Owners. Association Codes shall be adopted in accordance with the procedures set forth in this Article 6. Notwithstanding anything in the Governing Documents to the contrary, the Association Codes are not applicable to the conduct of a Builder during construction of dwellings. Association Codes shall prescribe rules, policies and/or procedures for implementing provisions of the Governing Documents including, but not limited to, the following:

(a) Additional covenants and restrictions regarding maintenance standards, permitted uses, prohibited uses and nuisances, or exclusive uses within the Development and any facilities situated thereon;

(b) Assumption of additional maintenance responsibilities by the Association upon all or any portion of the Development or any facilities situated thereon. In such event, the costs of such maintenance shall be assessed only against those Owners of Lots receiving or intending to receive the additional services or benefits;

(c) Non-disturbance, conservation or similar easements over all or any portion of the Common Area for the maintenance and protection of scenic views, natural conditions and open spaces within the Common Area;

(d) Adoption of architectural guidelines and standards applicable within the Development, provided that such architectural guidelines and standards shall not require the alteration of any previously approved Improvements and are otherwise in accordance with the provisions of Article 9 of this Declaration;

(e) Rules, guidelines and procedures associated with Applications for exterior additions, changes or alterations to Lots submitted to the Review Entity in accordance with Article 9 of this Declaration;

(f) Parking rules and regulations;

(g) Establishment of specific requirements or guidelines for insurance coverage for the Lots, Common Areas, and the members and officers of the Board of Directors;

(h) Procedures for collection and enforcement of Assessments;

(i) Policies related to use and control of Common Area and any facilities situated thereon;

(j) Rules and procedures regarding the removal of improperly parked vehicles;

(k) Procedures for processing alleged violations of the Governing Documents;

(l) Rules and regulations regarding trash collection; and

(m) Repeal and/or modification of previously adopted Association Codes.

***Section 6.2 Adoption of Association Codes.***

(a) Association Codes may be adopted, modified and amended by the Declarant or the Board of Directors in accordance with the procedures of this Section 6.2. Any Association Codes adopted, modified or amended by the Board of Directors shall require the consent of the Declarant during the Declarant Control Period.

(b) Except in the event of an emergency, as determined in the sole discretion of the Declarant or the Board of Directors, as the case may be, proposed Association Codes shall be published in the Association's principal medium for informing Owners of the Association's affairs, mailed to affected Owners at their address of record with the Association, or otherwise distributed to affected Owners and their Eligible Mortgagees in a reasonable manner at least thirty (30) days prior to the effective date of the Association Code. Actions to adopt, modify or amend Association Codes by the Board of Directors shall be taken at a meeting of the Board of Directors. At such meeting, all interested Owners shall be provided with a reasonable opportunity for comment and discussion. During the Declarant Control Period, the Declarant may adopt, modify or amend Association Codes without the requirement of holding a meeting for such action; provided, however, that the Declarant shall be required to provide notice of Association Codes in accordance with this Section 6.2(b). Association Codes shall be distributed to affected Owners in a reasonable manner and shall be retained among the corporate records of the Association.

***Section 6.3 Association Code Limitations.*** Except as may be specifically set forth in this Declaration, Association Codes are subject to the following limitations:

(a) Similarly situated Owners shall be generally treated in a substantially similar manner.

(b) No Association Code shall unreasonably interfere with activities within the interior confines of homes, except that Declarant or the Association may restrict or prohibit the following:

(i) Activities not normally associated with residential or home office use;

(ii) Activities that create monetary costs for the Association or other Owners;

(iii) Activities that create a danger to the health or safety of occupants of other Lots;

(iv) Activities that generate excessive noise or traffic, or noxious fumes or odors;

(v) Activities that create unsightly conditions visible outside of a home; and

(vi) Activities that create an unreasonable source of annoyance.

(c) No Association Code shall prohibit outright the leasing or transfer of any Lot, or require consent of the Association for transfer of any Lot; provided, however, that the Association may adopt reasonable rules governing the leasing or renting of all or any part of a home or structure on a Lot, require any Owner who leases or rents a Lot to register the tenants with the Association, and charge a reasonable fee for any administrative costs incurred by the Association for such registration. Any lease of a lot mist be for not less than twelve (12) months. Only entire Lots may be leased. No subleases or assignments of leases of a Lot are allowed.

(d) No Association Code or action by the Association shall impede or alter Declarant's development rights or Declarant's rights under this Declaration.

***Section 6.4 Binding Effect of Association Codes.*** Once duly adopted or amended, Association Codes shall inure to the benefit of the Association and the Owners and, though not intended to be recorded, Association Codes shall be binding restrictions and obligations of Owners to the same extent as the covenants, conditions and restrictions set forth in this Declaration and other instruments recorded against the Development. Without limiting the generality of the foregoing, each Owner shall take title to its Lot subject to all Association Codes that are or may be promulgated from time to time. The Association and any Owner shall have the right to enforce all restrictions, conditions, covenants, reservations, easements, liens, charges or other obligations imposed by the provisions of any duly adopted Association Code.

***Section 6.5 Owners' Acknowledgement and Notice to Purchasers.*** All Owners are given notice that use of their Lots is subject to all Association Codes as they may be modified from time to time in accordance with this Article 6. Each Owner, by acceptance of a deed or other interest in a Lot, acknowledges and agrees that the use, enjoyment and marketability of such Owner's Lot may be impacted by the Association Codes and that the Association Codes may change from time to time.

***Section 6.6 Other Actions.*** This Article 6 shall not be construed to limit the powers of the Declarant or the Board of Directors and the foregoing entities shall have full power and authority to take any action as may be authorized under the Governing Documents or applicable law, regardless of whether such action may otherwise constitute an Association Code.

## ARTICLE 7
## DECLARATION OF EASEMENTS AND RIGHTS; USE RESTRICTIONS

***Section 7.1 Declaration of Easements and Rights.*** Subject to the provisions of Section 7.15 below, the easements and rights set forth in this Article 7 are hereby granted, declared and reserved.

***Section 7.2 Development Easements.***

(a) There is hereby reserved unto the Declarant and to such other parties as the Declarant may specifically, and in writing, assign such rights, for the benefit of the Development, blanket easements upon, across, under and through the Development for (i) vehicular and pedestrian ingress and egress, (ii) curb cuts, slope, or grading easements, (iii) the placement of signs, including, without limitation, signs relating to the Development and signs used for sales and marketing purposes, (iv) the right to erect entry features, promotional and sales displays and other similar items within the Development, (v) the installation, operation, replacement, repair and maintenance of all utilities, including, but not limited to, water, sewer, drainage, storm water detention and/or siltation, gas, cable television, telephones, telecommunications, broadband, Internet, communications services, and electricity, and further including the right to connect to and use any such utilities which may exist or be located in the Development from time to time, and (vi) such other purposes reasonably related to the development activities of the Declarant, its affiliates and designees. By virtue of the utility easement set forth in this subsection, it shall be expressly permissible to install and maintain the necessary pipes, lines and other equipment within the Development, to affix and maintain electrical or telephone wires and conduits, sewer and water drainage lines, on, above, or below any portion of the Development, including any improvements constructed thereon, and to have construction vehicles, equipment and the like exercise a right of ingress and egress within the Development. There is further reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity, including all public authorities and utility companies, over any part of the Development in furtherance of the blanket easements created by this subsection. Further, without limiting the generality of the foregoing, the Declarant reserves the right to unilaterally execute and record such additional easements and agreements as may be necessary to give effect to the foregoing easements and other rights and such additional easements and other agreements need not be consented to or joined in by any Owner or other party having an interest in the Development. However, if requested by the Declarant, any Owner or other party having an interest in the Development shall promptly join in and execute such confirmatory easements and other agreements.

(b) There is hereby reserved unto the Declarant and to such other parties as the Declarant may specifically, and in writing, assign such rights, for the benefit of the Development, and for the benefit of the Declarant and its agents, a non-exclusive perpetual blanket easement upon, across, under and through the Development (provided such easement does not encroach upon any building within the Development or unreasonably interfere with the use and enjoyment

of the Development) for the following purposes: (i) ingress and egress to and from any and all portions of the Development by trucks, construction equipment, construction personnel and the like; (ii) to construct, install, reconstruct, alter, modify, remove and replace streets, roads, driveways, lanes, sidewalks and parking spaces within the Development; (iii) to excavate, fill and coordinate the height, grade, slope and contour of any portion of the Development and to add and remove soil from the Development; and (iv) for the conduct of all other development, construction, renovation, marketing, sales, leasing and related activities as may be deemed necessary or desirable by the Declarant, its affiliates and designees, or to comply with requirements imposed by Franklin County, North Carolina, or any governmental or quasi-governmental agency or authority having regulatory jurisdiction over the Development, and/or to comply with applicable laws or regulations.

(c) A blanket easement is hereby reserved to the Declarant and its agents upon, across, under and through the Development during the period of construction and Lot sales to maintain such facilities and perform such operations as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the development of the Development, including, without limitation, a business office, sales/leasing office, storage area, construction yards, signs, displays and model units.

(d) An easement is hereby reserved to the Declarant to enter any portion of the Development for the purpose of carrying out any obligations it may have, or assume, with respect to the curing of any defects in workmanship or materials in the Development or the improvements thereon or to fulfill the requirements of the Development Plans. There is further reserved unto the Declarant and its agents a non-exclusive easement over, across and through all of the Development for the purpose of access, the storage of building supplies and materials and equipment and, without any limitation, for any and all purposes reasonably related to the completion of the development, construction, rehabilitation and repair of any portion of the Development.

***Section 7.3 Grading Easements.*** For the duration of the Declarant Control Period, the Declarant reserves a blanket easement and right of passage and access on, over, under and through the Development to establish, maintain, change and correct drainage of surface water. Notwithstanding any provision of this Declaration to the contrary, except as may otherwise be provided in a separate contract with Builder, the Declarant shall have no obligation whatsoever to perform any work or to take any action regarding drainage of surface water within the Development. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action as may be reasonably necessary, following which the Declarant shall restore the affected property to its original condition as near as practicable. The Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice. There is further reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity including, without limitation, all public authorities and utility companies, over any part of the Development in furtherance of the blanket easement created by this Section. The Declarant may exercise the reserved rights under this Section for the duration of the Declarant Control Period. Thereafter, all rights of Declarant under this Section may be exercised by the Association.

***Section 7.4 Easements for Public Authorities and Utility Companies.*** For the duration of the Declarant Control Period, the Declarant reserves the right to grant easements, both temporary and permanent, to all public authorities and utility companies over any part of the Development.

***Section 7.5 Utilities Easements.*** The rights and duties of the Association and the Owners with respect to all public and/or private utilities serving and/or benefiting all or any portion of the Development, including, without limitation, water, sewer, gas, electricity, cable television, telephones and telecommunications services, and all pipes, wires, cables, conduits, transmission lines and other related facilities and equipment installed by the Declarant or in locations otherwise approved by the Declarant (collectively, the **"Utilities"**) shall be governed by the following:

(a) The Development is hereby subject to a non-exclusive perpetual easement and right of passage upon, across, under and through the Development, for the benefit of the Association and the Owners for the installation, maintenance, repair, replacement, inspection, operation and use of all Utilities, provided that the location of such Utilities has been approved by the Declarant. The Association and the Owners shall have the right, and they are hereby granted an easement and right of passage to the extent necessary to enter upon or have a utility company enter upon any portion of the Development in which the Utilities lie to inspect, repair, replace and generally maintain such Utilities.

(b) The right granted in subsection (a) above shall be only to the extent necessary to entitle parties serviced by the Utilities to their full and reasonable use and enjoyment, and provided further that anyone exercising such right shall be responsible for restoring as nearly as practicable the surface of the easement area so used to its condition prior to such use.

(c) The Development is hereby subject to a non-exclusive perpetual easement and right of passage upon, across and under the Development for the drainage and discharge of water from any storm drain or down spout situated within the Development installed by the Declarant or in locations otherwise approved by the Declarant, and no Owner shall cause or permit any alteration or obstruction to such drainage or flow of water to the detriment of any portion of the Development.

(d) A mutual right and easement for utility services is hereby established for the benefit of all Owners such that no Owner shall take any action which would in any way interfere with utility services being provided to other Owners within the Development. If a Lot contains any utility pipes, ducts, conduits, wires or the like which are for the benefit, in whole or in part, of other Owners within the Development, then the Owner of such Lot shall promptly, at such Owner's expense, repair any damage to such utilities caused by the Owner, or such Owner's tenants, lessees, agents, guests, invitees, licensees or household members.

***Section 7.6 Storm Water Management Easements.***

(a) Each Owner is hereby granted a non-exclusive easement and right of use, in, through, on, over, under, across and within the Development for the drainage, discharge, and transmission of storm water runoff through and into any storm water management facilities approved by the Declarant that are intended to benefit the Owner's Lot. Each Owner shall also have the right to connect to such storm water management facilities, subject, however, to the

approval of any applicable governmental authority or agency, if any such approval is required. The Association shall have the benefit of all easements and rights granted pursuant to this subsection with respect to the Common Area.

(b) Each Lot and the Common Area is subject to an easement for the installation, operation, maintenance, repair, and replacement of all storm water management pipes, equipment and facilities now or hereafter installed within any portion of the Development by or on behalf of Declarant.

(c) The Association is hereby granted a non-exclusive easement and right of passage on, through, over and across the Lots and the Common Area to maintain, repair and replace any storm water management area or facilities located therein for which it has maintenance responsibilities including, without limitation, ponds, basins, bio-retention or similar devices, recharge facilities, storm drainage pipes, infiltration trenches, inlets, oil grit separators, drainage areas and underground facilities, if any.

***Section 7.7 Association Easement Rights.*** The Association shall have an easement to enter any portion of the Development for the performance of its duties or exercise of its rights under this Declaration, including, without limitation, all easements reasonably necessary across, on, over and through the Development in order for the Association to perform its maintenance obligations. Without limiting the generality of the foregoing, the Association shall have a non-exclusive easement and right of passage across, on, over and through any Lot to perform such functions and operations as the Association may be authorized or empowered to carry out pursuant to this Declaration including, without limitation, any maintenance responsibilities as may now or hereafter be assumed by the Association with respect to such Lot. However, this easement shall not authorize or empower the Association to assume any maintenance responsibilities with respect to the interior of any Lot and the Association shall not enter the interior of any home or other structure on a Lot without the prior written consent of the Owner of the Lot. The Association shall have all rights and privileges as may be reasonably necessary to the exercise of the foregoing easement. The Association shall take reasonable steps to minimize any damage to any Lot as a result of the exercise of such easement and the Association shall restore as nearly as practicable any Lot to its original condition if there is any damage thereto as a result of the exercise of such easement.

***Section 7.8 Walkway Easements.*** The Development is hereby subject to a non-exclusive, perpetual easement and right of passage, for the benefit of the Owners, for ordinary and reasonable pedestrian ingress and egress over, across and upon any sidewalk, walkway or trail constructed within the Development that may reasonably be deemed to have been constructed or intended for pedestrian use.

***Section 7.9 Encroachment Easements.*** Each Lot and all Common Areas shall have an easement, not exceeding three feet (3') in width, over all adjoining portions of the Development for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, roof overhangs, gutters, architectural or other appendages, draining of rainwater from roofs, or any other similar cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, provided, however, that in no event shall a valid easement for an encroachment be created in favor of any Owner if said encroachment occurred due to the willful misconduct of said Owner. If any improvement is partially or totally destroyed and then

repaired or rebuilt, minor encroachments over any adjoining Lot or Common Area shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

***Section 7.10 Common Area Easements.*** The Board of Directors shall have the right to grant easements, rights-of-way, licenses and similar interests over any part of the Common Area for any lawful purpose which the Board determines, in its sole discretion, to be in the best interests of the Association. Any such easements, rights-of-way, licenses and similar interests shall require the written consent of the Declarant during the Declarant Control Period.

***Section 7.11 Conservation Easements and Other Restrictions.*** The Association shall be responsible for monitoring compliance with the requirements of any conservation easements and any other restrictions imposed on the Common Area by the County or other governmental authorities, and for periodically reminding the Owners of these restrictions. The Association may exercise all of its rights and remedies available under the Governing Documents for violations of the Association's covenants with respect to any Owner that violates the conservation requirements and other restrictions of the County or other governmental authority.

***Section 7.12 Exercise of Easement Rights.*** Unless expressly provided otherwise, all easements created and granted under this Declaration shall be perpetual. The use of any of the words "in", "to", "on", "over", "under", "within", "through", "upon", or "across" with respect to an easement or other right set forth in this Declaration shall mean and include all or any of such words, as the context may require. All such easements may be exercised by the employees, agents and other designees of the benefited party on behalf of the benefited party, and shall be exercised in a reasonable manner, shall be subject to all applicable laws and regulations, and shall be located consistent with all applicable site plans for the Development approved by the County. Any parties exercising any of such easements shall restore any disturbed property to substantially the condition existing prior to the exercise of such easement. Except for existing items or as otherwise provided for in this Declaration, no easement shall be located under the footprint of a building, or upon the proposed footprint of a building as shown on an approved site plan without the prior written consent of the owner of such building, which consent shall not be unreasonably withheld. No easement shall be established or utilized in a manner that causes an unreasonable interruption of an existing use or which has a material adverse impact upon any Owner or lessee for an unreasonable length of time.

***Section 7.13 Cooperation.*** With respect to the Declarant's reserved rights to grant easements or enter into agreements pursuant to this Article 7, the Declarant may unilaterally execute and record such additional easements and agreements in accordance with such reserved rights without the consent or joinder of any Owner or other party having an interest in the Development, provided, however, that if requested by the Declarant, any Owner or other party having an interest in the Development shall promptly join in and execute such easements and other agreements.

***Section 7.14 Reserved Rights of Declarant.***

(a) There is reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity including, without limitation, all public authorities and utility companies, over any part of the Development in furtherance of the general easements created by this Declaration.

(b) For the duration of the Declarant Control Period, the Declarant reserves the right to modify or alter the size, number, type and location of the Common Area and any other improvements in the Development as the Declarant deems necessary or desirable in conjunction with the development of the Development but subject to the Development Plans. Without limiting the generality of the foregoing, the Declarant reserves the right to resubdivide all or a portion of the Development, to modify lot lines within the Development, to convey Common Area, to modify the site plans, to construct improvements on the Common Area, and to take whatever other action with respect to the Development as the Declarant may deem necessary or desirable, subject to the Development Plans. If requested by the Declarant, the Association shall promptly execute and deliver such deeds and other instruments as may be necessary or desired in connection with any resubdivision or lot line modification, changes to the Development Plans, or otherwise related to the development or use of the Development.

***Section 7.15 Permitted Uses.*** Each Lot shall be used for residential purposes exclusively. Notwithstanding the foregoing, nothing contained in this Section or elsewhere in the Governing Documents shall be construed to prohibit the Declarant from using any Lot for promotional or display purposes, for "model homes", a sales and/or construction office, or for any other lawful purpose.

***Section 7.16 Prohibited Uses and Nuisances; Pets.*** In addition to such other rules, regulations, Association Codes, or other restrictions that the Board of Directors may from time to time enact or amend, the following restrictions apply to the Development and Owners, occupants, guests and invitees upon the Development:

(a) Use and occupancy of the Lots is restricted to residential uses only. These use restrictions shall not be construed in such a manner as to prohibit an Owner from maintaining his personal professional library, keeping his personal business or professional records or accounts or handling his personal, business or professional telephone calls, electronic transmissions or correspondence in and from his Lot to the extent permitted by applicable law; provided such activities do not interfere with the quiet enjoyment of other Lots. Notwithstanding the foregoing, the Declarant and Builders, shall be permitted to use Lots which such entity owns or leases as model apartments, as sales, leasing, development, marketing, construction, management or other offices.

(b) No noxious or offensive activity shall be allowed within or upon any Lot or the Common Area that may be or become an annoyance or nuisance to the community or other Owners. The restrictions of this subsection (a) shall not apply to matters exempted with the prior written approval of the Board of Directors or the Declarant during the Declarant Control Period or to activities that may be necessary in connection with reasonable and necessary repairs or maintenance of any Lot or Common Area.

(c) Pets shall be attended at all times and shall be registered, licensed and inoculated as may from time to time be required by law. Pets shall not be permitted upon the Common Area unless accompanied by a responsible person and unless they are carried or leashed. All persons that bring pets upon the Common Area shall be responsible for the clean-up and proper disposal of any waste deposited on the Common Area by such pets. The Association shall not be liable for any loss, damage, or injury caused by any animal within or in the vicinity of the

Development. Any person who keeps or maintains any pet upon any portion of the Development shall indemnify and hold harmless the Association, the Declarant, and each Owner against any loss, damage, injury, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Development. Pets that are permitted to roam free or that are determined by the Board in its sole discretion to endanger the health and safety of any other Owner(s), make objectionable noise, or constitute a nuisance or inconvenience to any other Owner(s), shall be promptly removed from the Development upon request by the Board of Directors. The Board of Directors shall have the right to adopt or amend additional rules and regulations regarding pets, consistent with this subsection, as it may from time to time consider necessary or appropriate.

(d) No structure of a temporary character, trailer, mobile home or recreational vehicle shall be permitted on any Lots at any time except during construction or used at any time as a residence, either temporarily or permanently.

(e) No flag (other than the flags of the United States or North Carolina, of a size no greater than four feet by six feet, which is displayed in accordance with or in a manner consistent with the patriotic customs set forth in 4 U.S.C. §§ 5-10, as amended, governing the display and use of the flag of the United States), sign, poster, display or billboard of any kind shall be displayed to the public view on any Lot, entryways or outside walls of any dwelling, any fences on the Development, any Common Areas, dedicated areas, or any vehicles within the Development, except for the following signs: (1) any signs regardless of size used by the Declarant and their respective affiliates or as authorized by Declarant or Review Committee (in locations and in accordance with applicable design standards); (2) one sign per Lot not to exceed 144 square inches indicating that the Unit is monitored by an alarm or monitoring service; or (3) not more than two (2) "political signs" per Lot as defined in §3-122 of the Act, the maximum dimensions of any such sign shall not exceed 24 inches by 24 inches. Political signs may not be displayed on a Lot earlier than 45 days before the applicable election and must be removed not later than 7 days after the election day. No sign of any kind which shall be visible outside the Unit shall be permitted inside a Unit or on a Lot, except as authorized by Declarant or Review Committee (in locations and in accordance with applicable design standards). So long as Declarant (or any of its affiliates) owns any portion of the Community, Declarant may authorize Declarant, its affiliates, Declarant's Permittees, and, to the extent authorized by Declarant, any Builder or its Subcontractors, to place any signs on the Development in connection with construction, sales, leasing, resales and other marketing activities.

(f) No campers, mobile homes, motorhomes, boats, house trailers, boat trailers, or trailers of every other description shall be permitted to be parked or to be stored at any place on any Lot, except (1) during the periods of approved development or construction on a Lot or (2) when stored out of view in an enclosed garage on such Lot. Small pick-up trucks (one ton or less), sports utility vehicles and/or vans of the type commonly used as private passenger vehicles may be parked or stored in approved parking areas on such Lot, regardless of whether such trucks and other vehicles display commercial markings. These restriction on parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up, delivery, and other commercial services or to law enforcement vehicles of an Owners or Permitted User of a Unit. No vehicle which is unlicensed or inoperable may be kept or stored on the Development except out of view in an enclosed garage on a Lot. No repair work to any type of motor vehicle, boat or trailer

shall be conducted on any Lot other than minor repairs, cleaning or waxing which is completed in less than 24 hours.

(g) Any seasonal or holiday decorations (e.g., Christmas trees and lights, pumpkins, Easter decorations) shall not be visible from the street except for the period of time from thirty (30) days before such season or holiday through thirty (30) days after such season or holiday. Any Owner may apply for a variance from this provision, and the Declarant during the Declarant Control Period and thereafter the Board has the sole discretion to determine what is a reasonable period of time for such variance. The Board shall have the right to require an Owner or Permitted User to remove seasonal or holiday decorations which create a nuisance in the reasonable judgment of the Board.

(h) No exterior antennae, satellite dishes or similar equipment shall be installed on any Lot, Common Area or Improvement thereon, unless such antennae, satellite dishes and similar equipment are approved by the Review Committee and conform to the conditions and requirements imposed pursuant to Article 9. Such conditions and restrictions shall be reasonable, and approval shall not be unreasonably denied or delayed. No radio or shortwave operations of any kind shall be permitted to operate on any Common Areas or any Unit. The Declarant may erect an antenna or a master antenna or a cable television antenna for the use of all the Owners, and Declarant grants and hereby reserves easements for such purposes as more particularly set forth in Article 7. Notwithstanding the foregoing, to facilitate compliance with The Telecommunications Act of 1996, the following provisions apply to installation of DBS, MDS, ITFS, and LMDC dishes less than one (1) meter in diameter, and TVBS antennas:

(i) No payment of any fee shall be required as a condition of approval for installation.

(ii) Any installation must be placed on the Lot in a location which in not visible from any street, unless such placement would: (a) unreasonably delay or prevent installation, Maintenance or use; or (b) unreasonably increase the cost of installation, Maintenance or use; (c) preclude reception of an acceptable quality signal.

(iii) The Owner must take reasonable measures to screen the installation. "Reasonable" means an installation which is consistent with the overall landscape standards of the Community, but does not (a) unreasonably delay or prevent installation, Maintenance or use, (b) unreasonably increase the cost of installation, Maintenance of use; or (c) preclude reception of an acceptable quality signal.

(i) No tree or shrub, the trunk of which exceeds two (2) inches in diameter, may be cut down, destroyed or removed from any Lot without the prior approval of the Review Committee. No artificial grass, plants or other artificial vegetation or sculptural landscape decor shall be placed or maintained upon the exterior portion of any Lot without the prior approval of the Review Committee.

(j) No play or game structures including basketball hoops or tennis courts shall be located on any Lot unless approved in advance by the Review Committee. Additionally, no

platform, doghouse, playhouse, storage shed or auxiliary structure of any kind or nature shall be constructed on any part of a Lot unless approved in advance by the Review Committee.

In general, the Declarant and any Builder or its Subcontractors shall be exempt from all restrictions set forth in this Declaration to the extent such restrictions interfere in any matter with Declarant's or any Builder's plans for construction, development, use, sale, leasing, resale or other disposition of the Development.

## ARTICLE 8
## MAINTENANCE

***Section 8.1 Association Maintenance.***

(a) The Association shall operate, maintain, repair and replace the Common Area and keep such items in good order at all times. This obligation shall include, without limitation, (i) the maintenance, repair and, as necessary, replacement of any private roadways within the Common Area, (ii) the maintenance, repair and, as necessary, replacement of any irrigation systems within the Common Area, (iii) the maintenance, repair and, as necessary, replacement of any sidewalks and walkways within the Common Area, (iv) the operation, maintenance, repair and, as necessary, replacement of any recreational facilities comprising part of the Common Area, and (v) the trimming, mowing, watering, and other maintenance of all landscaped areas comprising part of the Common Area so as to keep the same in good and attractive condition. Further, the Association shall maintain, repair and replace (A) any rights-of-way, entry strips, signage, and entrance features or improvements that are situated within or appurtenant to and serve the Development and that the Association is otherwise obligated to maintain, including, without limitation, any landscaping and other flora and improvements situated thereon, (B) and any other real and personal property, facilities and equipment as the Association is obligated or elects to maintain pursuant to this Declaration, or any lease, easement or agreement, or the direction of any governmental authority or agency. The expenses of all such operation, maintenance, repair and replacement shall be Common Expenses of the Association including, but not limited to, reserves for the maintenance, repair and replacement of any such property or improvements.

(b) Except to the extent the County performs maintenance of any storm water management ponds or other facilities located in the Development, the Association shall be responsible for the maintenance, repair and replacement of any storm water management area or facilities situated within the Common Area, including, without limitation, any drainage pipes, infiltration trenches, ponds, basins, swales, berms, out-flow control devices, drainage areas, filters, inlets, oil/grit separators and underground facilities. The Association shall also be responsible for the maintenance, repair and replacement of any storm water management area or facilities that serve and/or benefit the Development whether or not located within the Common Area if the Association is responsible for doing so pursuant to any easement, agreement or the direction of any governmental authority or agency. Such responsibility may be in the form of contributing the Association's share of the maintenance costs of any storm water management area, facility or equipment pursuant to an easement or agreement, which maintenance costs shall be Common Expenses of the Association. The Board of Directors may enter into any such easements or other agreements that the Board may deem necessary or desirable for purposes of allocating or sharing

the costs associated with the maintenance of any storm water management areas, facilities or equipment that serve or benefit the Development. The Association shall not refuse to accept the conveyance of any such storm water management area, facilities or equipment from the Declarant.

***Section 8.2 Additional Maintenance Responsibilities.*** In addition to those items addressed in this Declaration, the Association may, in the discretion of the Board of Directors, provide other services and/or assume additional maintenance responsibilities with respect to all or any portion of the Development. In such event, all costs of such services and/or maintenance shall be assessed only against those Owners receiving the additional services in such amounts as determined from time to time by the Board of Directors.

***Section 8.3 Maintenance Requirements for Lots.*** Except as otherwise specifically provided in this Declaration or other Governing Documents, each Owner shall ensure that its Lot and all improvements therein or thereon are maintained in a safe and sightly condition, in good order and repair and free of debris in a manner and with such frequency as is consistent with this Declaration, the Design Guidelines, any maintenance standards that may be determined from time to time by the Board, and all applicable laws and regulations.

## ARTICLE 9
## DESIGN REVIEW AND ARCHITECTURAL CONTROL

***Section 9.1 Architectural Approval.*** Complete plans and specifications as determined by the Review Entity for the Association for various design and construction stages for the exteriors of all "Improvements" (defined below) shall be approved in writing in accordance with this Article 9 prior to the commencement of any development, construction or modification activities for such Improvements within the Development. **"Improvements"** shall mean, collectively, the following items and activities within the Development:

(a) staking, clearing, landscaping, excavation, grading or other site work;

(b) the exteriors of buildings, structures and other improvements of any kind;

(c) exterior additions, changes or alterations of any nature to Lots, buildings or other improvements including, without limitation, changes in color, changes or additions to driveway or walkway surfaces, decks, porches, lighting and landscaping modifications.

***Section 9.2 Initial Construction.*** The initial construction of homes on the Lots and other Improvements within the Development shall not be commenced, erected or maintained until complete plans and specifications for such Improvements have been reviewed and approved by the Declarant, in writing and in its sole discretion, for compliance with any applicable design standards that may be promulgated by the Declarant with respect to such Improvements. Notwithstanding any provision of the Governing Documents to the contrary, the approval of the Declarant pursuant to this Section 9.2 shall be the only approval required under this Declaration or other Governing Documents with respect to the construction of initial Improvements; however, each Owner shall also be responsible for obtaining all other applicable approvals required by governmental authorities or otherwise. Nothing in this Section 9.2 or otherwise in the Governing Documents shall be deemed to require that any initial Improvements approved by the Declarant conform to Design Guidelines or other matters that might otherwise be binding on Owners for any changes to initial Improvements.

***Section 9.3 Changes and Modifications to Improvements.*** Except for initial Improvements which shall be approved by the Declarant in accordance with Section 9.2 above, no Owner or any other person or entity shall commence, erect or maintain any Improvements or changes or modification to Improvements within the Development until complete plans and specifications for such Improvements have been approved, in writing, by the appropriate Review Entity in accordance with this Article 9.

***Section 9.4 Review Entity.*** As used in this Declaration, the term **"Review Entity"** means one or more of the following entities having jurisdiction at any particular time with respect to the matters described in this Article 9:

(a) **The Declarant**, with respect to all architectural review and approval authority under this Article 9 for all Lots and Common Area, except to the extent any such rights and powers are assigned or terminated in accordance with Section 9.5. All rights and powers of the Declarant under this Article 9 may be exercised on behalf of the Declarant by such members, officers, directors, employees, agents, representatives, or other designees of the Declarant as the Declarant may designate from time to time.

(b) **The Design Review Committee**, but only upon the assignment of such rights and powers from the Declarant in accordance with Section 9.5. If a covenants committee or similar committee of the Association is appointed by the Board, such committee may from time to time also be designated to serve as the Design Review Committee, and such designation may be made by the Declarant during the Declarant Control Period and by the Board of Directors after the Declarant Control Period. If a Design Review Committee is not appointed, the Board of Directors shall exercise all rights and powers that could be exercised by the Design Review Committee.

***Section 9.5 The Declarant as a Review Entity.*** The Declarant shall be exclusively entitled to exercise all rights and powers of the Review Entity under this Declaration for all Lots and Common Area, except to the extent such rights and powers are expressly assigned in writing by the Declarant. The Declarant may assign all or part of its rights and powers under this Article 9 to the Design Review Committee. Notwithstanding the foregoing, upon the termination of the Declarant Control Period, all rights and powers reserved to the Declarant under this Article 9 not previously assigned to the Design Review Committee shall automatically terminate and shall be deemed assigned to, and thereafter exercised by, the Design Review Committee or to the Board of Directors if no Design Review Committee has been appointed. Each Owner shall be deemed to covenant and agree that (i) neither initial construction of Improvements nor any exterior addition, change or other alteration to existing Improvements shall be commenced within the Owner's Lot until approval for such construction, addition, change or other alteration is approved in accordance with this Article 9, and (ii) the Declarant has a significant and substantial interest in ensuring that all Improvements are consistent with the plans for the Development and that the Improvements do not have an adverse impact upon the development, marketing, sales, leasing and/or operation of any portion of the Development. Accordingly, in its exercise of the rights and powers of the Review Entity under this Declaration, the Declarant shall have the right to approve or disapprove any plans and specifications for Improvements in the Declarant's sole discretion, and all Owners acknowledge that in reviewing and acting upon any such plans and specifications, the Declarant shall be acting in its own interest and shall owe no duty whatsoever to any other individual or entity, including, without limitation, the Association or any Owner.

***Section 9.6 Design Review Committee as a Review Entity.*** The Design Review Committee shall exercise such rights and powers of the Review Entity as may from time to time be assigned to such Design Review Committee pursuant to Section 9.5 above. The Design Review Committee shall consist of an uneven number of members, at least three (3) in number, who shall serve at the pleasure of and may be removed and replaced at the discretion of the Declarant, during the Declarant Control Period, and by the Board of Directors thereafter. The members of the Design Review Committee need not be members of the Association and may, but need not, include architects, engineers and similar design professionals. Any compensation for members of the Design Review Committee, including architects or other design professionals, shall be established from time to time by the Board of Directors.

***Section 9.7 Revocation of Assigned Rights.*** Until termination of the Declarant Control Period, the Declarant may, in its sole discretion, revoke any prior assignment of all or part of the rights and powers under this Article 9 that the Declarant may have assigned to the Design Review Committee or other designee. Upon such time that the Declarant may revoke any previously assigned rights and powers under this Article 9, the Declarant shall automatically have the authority to exercise such rights and powers.

***Section 9.8 Application Review.***

(a) Except for the initial construction of Improvements which is governed by Section 9.2 above, no Improvement of any kind shall be commenced, erected or maintained upon the Development by an Owner until a design review application (**"Application"**) is submitted to and approved by the Review Entity. The Application shall include detailed plans showing applicable items such as site layout, exterior elevations, exterior materials and colors, landscaping, drainage, lighting, irrigation, and other relevant features of the Improvements, as required by the Review Entity and any Design Guidelines applicable to the applicant's Improvements. The Review Entity may also require the submission of such additional information as it deems necessary to consider any Application. The Review Entity may consider, but shall not be restricted to consideration of, visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, location in relation to surrounding structures and plant life, compliance with the general intent of applicable Design Guidelines and architectural merit. In many instances, decisions will be based solely on aesthetic considerations, and each applicant acknowledges that determinations as to such matters may be highly subjective and opinions may vary as to the desirability and/or attractiveness of particular Improvements.

(b) The Review Entity shall, within thirty (30) calendar days after receipt of a complete Application, advise the applicant in writing of the approval or disapproval of the Application. If the Review Entity fails to advise the applicant by written notice within thirty (30) calendar days of receipt of a complete Application of either the approval or disapproval of the Application, the applicant shall give the Review Entity written notice of the Review Entity's failure to respond. The applicant's notice shall include a conspicuous statement in bold and underlined text that unless the Review Entity responds within fifteen (15) calendar days of receipt of such applicant's notice, approval of the Application shall be deemed granted. Upon such further failure of the Review Entity to grant an approval or disapproval, approval shall be deemed to have been given. Notwithstanding the foregoing, no approval, whether expressly granted or deemed granted

pursuant to this Section 9.8, shall be materially inconsistent with any Design Guidelines applicable to the Improvements in question, unless a variance has been granted in writing in accordance with Section 9.14 below. Notices from an applicant to the Review Entity under this Section 9.8 shall be deemed to have been given at the time the envelope containing such notice, properly addressed and postage prepaid, is delivered by the U.S. Postal Service by registered or certified mail, return receipt requested, or by any other delivery or courier service, such as Federal Express or UPS, which can provide tracking information regarding the delivery of such notice. Personal verified delivery of such written notice by any other means shall also be sufficient and shall be deemed to have been given at the time of delivery.

***Section 9.9 Preliminary Applications and Approvals.*** Notwithstanding any provisions of this Article 9 to the contrary, the Review Entity may review an Application containing preliminary drawings, schematics, specifications or other features or information that is less than what would otherwise be required in order to process a complete Application for proposed Improvements. The Review Entity may issue a preliminary approval with respect to such preliminary Application if the Review Entity determines that such a preliminary approval is appropriate. The purpose of such preliminary Applications is to allow an applicant to receive a determination from the Review Entity as to whether certain architectural or design concepts, features, or specifications are acceptable before such applicant proceeds with additional plans and engineering for the proposed Improvements. The Review Entity may impose such conditions on any preliminary Application or preliminary approval that the Review Entity deems necessary or appropriate. Unless otherwise expressly authorized by the Review Entity in writing, no Owner or other party shall commence construction or any other work on any proposed Improvements based upon a preliminary approval given pursuant to this Section; rather, approval of a complete Application in accordance with this Article 9 shall be required before commencement of construction or other work.

***Section 9.10 Application Fees and Reimbursements.*** The Review Entity may (i) establish and charge reasonable fees for review of Applications hereunder; (ii) retain architects, engineers or other design professionals to assist in its review of any Application; and (iii) require reimbursement by the applicant of fees charged by any architect, engineers or other design professionals.

***Section 9.11 Design Guidelines and Procedures.***

(a) The Review Entity may, but shall not be required to, establish Community Standards and Design Guidelines design guidelines to provide guidance to Owners, builders and contractors regarding matters deemed to be of relevance or importance to the Review Entity in considering Applications for architectural approval and establishing details required for Improvements, as the same may be modified or amended from time to time ("**Community Standards and Design Guidelines**" or "**Design Guidelines**"). Subject to Section 9.2, any Design Guidelines shall not be the exclusive basis for decisions hereunder, and compliance with the Design Guidelines shall not guarantee approval of an Application. Design Guidelines may contain general provisions applicable to all Lots and other Improvements, as well as specific provisions which vary from one Lot or other Improvement to another, depending upon the location, type of construction or use, and unique characteristics of such Improvements. The Review Entity shall make copies of Design Guidelines available to Owners, builders and contractors and may charge a reasonable fee to cover the costs of providing the Design Guidelines.

(b) Any Design Guidelines established pursuant to this Article 9 may be modified and amended from time to time in the sole discretion of the Review Entity subject to Section 9.11(d) below. Modifications and amendments to Design Guidelines shall not apply to or require modifications to or removal of Improvements previously approved once such Improvements have commenced. However, modifications or amendments to Design Guidelines may prohibit an exact replacement of a previously approved Improvement. Any subsequent removal or alteration of any previously approved Improvements shall be subject to the Design Guidelines in existence at the time of such subsequent removal or alteration. There shall be no limitation on the scope of modifications or amendments to any Design Guidelines. Copies of any modifications or amendments to Design Guidelines shall be provided to applicable Owners.

(c) The Review Entity may from time to time adopt and promulgate procedures and requirements for the submission of Applications to the Review Entity, including, without limitation, requirements regarding the number of copies, the content, scale and detail of the plans and specifications to be included with such Applications, and the identification of any required supporting materials; provided, however, that such application procedures shall not contravene any specific requirement established by this Declaration. Any application procedures adopted pursuant to this Article 9 shall be subject to modification and amendment from time to time in the sole discretion of the Review Entity, subject to Section 9.11(d). Such application procedures shall not be construed as a waiver of the provisions of this Article 9 or any other provision or requirement of this Declaration.

(d) Notwithstanding any provision of this Declaration to the contrary, any Design Guidelines or application procedures promulgated by the Design Review Committee shall be (i) subject to the Declarant's prior approval during the Declarant Control Period, and (ii) subject to the prior approval of the Board after the Declarant Control Period provided that the Board is not otherwise acting as the Design Review Committee.

***Section 9.12 Completion of Improvements.*** Construction of Improvements in accordance with the approved Application shall be completed within six (6) months following approval of the Application, or within such other period as the Review Entity may specify in its approval. If construction is not completed within the period aforesaid, the Review Entity shall have the option to withdraw its approval of the plans and specifications and require the applicant to re-submit an Application and otherwise comply with the requirements of this Article 9. There shall be no material deviations from plans and specifications approved by the Review Entity (as determined by the Review Entity in its sole discretion) without the prior consent in writing of the Review Entity.

***Section 9.13 Non-Precedential Nature of Approvals.*** Each applicant acknowledges that the composition of the Review Entity will change from time to time and that decisions regarding aesthetic matters and interpretation and application of the Design Guidelines applicable to the applicant's Improvements may vary from time to time. In addition, each applicant acknowledges that it may not always be possible to identify objectionable features of proposed Improvements until the Improvements are completed, in which case it may be unreasonable to require changes to the Improvements previously approved; however, the Review Entity may refuse to approve similar Improvements in the future. Approval of Improvements for any particular applicant or Improvements shall not be deemed a waiver of the right to withhold approval as to any similar Improvements subsequently submitted for approval.

***Section 9.14 Waivers and Variances.*** The Review Entity in its sole discretion may, but shall not be required to, authorize waivers or variances from compliance with any Design Guidelines or for nonconforming Improvements when circumstances such as topography, natural obstructions, aesthetic or environmental considerations, architectural merit, or other reasonable considerations warrant such a waiver or variance. Such waivers and variances shall be granted only if and when the Review Entity determines that some or all of the foregoing circumstances warrant a waiver or variance. No applicant shall have any right to demand or obtain a waiver or variance. Except for a waiver or variance authorized by the Declarant, no waiver or variance may (i) be effective unless in writing, (ii) be contrary to this Declaration, or (iii) be inconsistent with the goals or objectives of the Declarant. In no event shall any waiver or variance prohibit or estop the Review Entity from denying a waiver or variance in other circumstances.

***Section 9.15 Limited Scope of Approval.*** The standards and procedures established by this Article 9 are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Development. Approval of an Application by a Review Entity shall in no way be construed as to pass judgment on the correctness of the location, structural design, suitability of water flow or drainage, location of utilities, or other qualities of the item being reviewed. No Review Entity, nor any of its members, officers, directors, employees, agents, or representatives, shall bear any responsibility for ensuring structural integrity, soundness or compliance with building codes and other governmental approvals or requirements, or that any Improvements are located so as to avoid negative impacts on other Lots or surrounding properties including, without limitation, impaired views. No representation is made by any Review Entity with respect to the quality, size, value or design of future Improvements. Approval by any Review Entity shall not be construed as a representation or warranty of any type regarding the design or construction of any Improvement and no Review Entity, nor any of its members, officers, directors, employees, agents, or representatives, shall be liable for (i) soil conditions, drainage or other site work problems, (ii) defects or errors in any plans or specifications submitted as part of an Application, (iii) any structural or other defects in Improvements constructed according to an approved Application, or (iv) any injury, damages, or loss arising out of the design, quality or manner of construction of any approved Improvements. Approvals by the Review Entity shall in no way be deemed to constitute a determination as to compliance with local zoning ordinances, governmental guidelines or restrictions, or be substituted in lieu of applicable governmental approvals and permits, and no construction may commence until all such approvals and permits have been obtained.

***Section 9.16 Enforcement.***

(a) Any Improvements constructed in violation of this Article 9 or in a manner inconsistent with an approved Application shall be deemed to be nonconforming. Upon written request from the Review Entity, the defaulting Owner shall, at its own cost and expense, promptly either remove any nonconforming Improvement and restore the Improvement to substantially the same condition that existed prior to the installation of the nonconforming Improvement or bring the nonconforming Improvement into compliance with the approved Application, as applicable. If a defaulting Owner fails to remove any nonconforming Improvement or bring the nonconforming Improvement into compliance with the approved Application, as applicable, the Review Entity shall have the right to enforce this Article 9 in accordance with Sections 14.5, 14.6, and 14.7 of this Declaration including, without limitation, by removing the violation and restoring the Improvement to substantially the same condition as previously existed. The Review Entity

may preclude any contractor, subcontractor, agent, employee or other invitee of any Owner who fails to comply with the terms and provisions of this Article 9 and the applicable Design Guidelines from continuing any further activities on the Improvements or any other portion of the Development. Neither the Review Entity, nor any of its members, officers, directors, employees, agents, or representatives shall be held liable to any Owner or any other person or entity for exercising the rights granted by this Article 9.

(b) During the Declarant Control Period, if a Design Review Committee fails to take enforcement action within thirty (30) calendar days after receipt of a written demand from the Declarant identifying the violator and/or specifying the nature of the violation, then the Declarant may undertake any appropriate enforcement action, and the Association shall reimburse the Declarant for all costs reasonably incurred by the Declarant in taking such enforcement action with respect to such violation, but only to the extent the Declarant prevails in such action.

***Section 9.17 Certificate of Compliance.*** Upon satisfactory completion of Improvements in accordance with plans and specifications approved by the Review Entity in accordance with the provisions of this Article 9, the Review Entity shall, at the written request of the applicant, issue a certificate of compliance. A certificate of compliance shall be prima facie evidence that the Improvements referenced in such certificate have been approved by the Review Entity in full compliance with the provisions of this Article 9 and with such other provisions and requirements of the Governing Documents as may be applicable. The Review Entity may charge the applicant a reasonable administrative fee for issuing a certificate of compliance.

***Section 9.18 Appeal of Design Review Committee Decisions.*** Any decisions made by a Design Review Committee may be appealed to the Board of Directors by the party whose Application or other request was the subject of the Design Review Committee's decision. Any Owner filing an appeal may submit a written request for a hearing before the Board of Directors, which may be granted or denied in the Board's sole discretion. A vote of at least a majority of the Board of Directors shall be required to reverse or modify a decision of the Design Review Committee. Notwithstanding the foregoing, when acting as the Review Entity, the decisions of the Declarant and the Board of Directors shall be final and shall not be subject to appeal.

***Section 9.19 Builder Exemption.*** As to any Builder, Declarant or its predecessors or affiliates may provide, in a contract with the Builder or otherwise, blanket exemption from the provisions of Article 9 or blanket approval of construction activities, site plans, general housing styles or finishes which may then be constructed or performed on any Lot without the need for additional written approvals of, or the submission of, specifications, exterior color and finish, landscape plan, site development or any other matter otherwise required for submission or payment of any fees to the Association or the Review Entity. Once granted, such blanket approval shall be irrevocable and binding on the Association and the Review Entity as to any Lots owned by Builder or subject to any contract to purchase or option to purchase of Builder. Once blanket approval is granted, a Builder shall not be obligated to provide any further submittals nor obtain any other approvals from, or pay any fees to, the Association, Declarant, Board or Review Entity.

## ARTICLE 10
## INSURANCE

***Section 10.1 Association Coverage.***

(a) The Board of Directors shall cause to be maintained a policy of property insurance covering the Common Area, and any property required to be insured by the Association pursuant to any easement, lease or other agreement (except land, foundation, excavation and other items normally excluded from coverage), including fixtures and building service equipment, to the extent that they are a part of the Common Area of the Association or such other property which the Association may insure, as well as common personal property and supplies.

(b) The Association's property insurance policy shall conform to the requirements of §47F-3-113 of the Act and be so-called "special form", affording protection against loss or damage by fire and all other perils normally covered by "all risk" insurance, and shall name the Association as a named insured. The insurance should cover one hundred percent (100%) of the current replacement cost (less a deductible determined by the Board) of the insured property, excluding land, foundations, excavations and other items that are usually excluded from such insurance coverage. Deductibles for coverage of the Common Area shall be in amounts determined from time to time by the Board of Directors and in accordance with applicable law.

(c) The property insurance policy must provide that the insurance carrier shall notify the Association and each Mortgagee named in the Mortgagee clause in writing at least thirty (30) days before it cancels or substantially changes the Association's coverage. In addition, each Eligible Mortgagee shall receive timely written notice of any lapse, material modification or cancellation of any insurance policy covering the Common Area.

(d) All policies of property insurance must contain or have attached the standard Mortgagee clause commonly accepted by Institutional Mortgagees in the area in which the mortgaged premises are located. The following endorsements are also required: (i) a Construction Code Endorsement if any Common Area is subject to a construction code provision that would become operative and require changes to undamaged portions of any structures, even when only part of a structure is destroyed by an insured hazard or peril, and (ii) a Steam Boiler and Machinery Coverage Endorsement if any structure within the Common Area has central heating or cooling, which shall provide for coverage per accident per location to be at least equal to the lesser of Two Million Dollars ($2,000,000) or the insurable value of the structure(s) housing the boiler or machinery.

(e) If any Common Area is located in a Special Flood Hazard Area designated as A, AE, AH, AO, A1-30, A-99, V, VE, or V1-30 on a Flood Insurance Rate Map, the Association must maintain a "master" or "blanket" policy of flood insurance on such Common Area. The amount of flood insurance shall be at least equal to the lesser of one hundred percent (100%) of the insurable value of all structures and improvements situated in such Special Flood Hazard Area or the maximum coverage available under the applicable National Flood Insurance Administration program.

(f) The Board of Directors shall cause to be maintained commercial general liability insurance consistent with the requirements of § 47F-3-113 of the Act covering all of the Common Area and any other areas that are under the Association's supervision. The policy shall provide coverage for bodily injury (including death) and property damage that results from the operation, maintenance or use of the Common Area. Such insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. Liability coverage shall be at least One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000), annual aggregate, combined single limit, for bodily injury and property damage. Such limits may be increased by the Board of Directors from time to time as economic conditions warrant and to conform to limits then customarily maintained in similar projects. The liability policies must provide that the insurance carrier shall notify the Association in writing at least thirty (30) days before it cancels or substantially modifies the Association's coverage.

(g) The Board of Directors shall obtain an umbrella liability insurance policy in an amount not less than Five Million Dollars ($5,000,000) per occurrence.

(h) The Board of Directors shall obtain fidelity insurance as required under Section 10.2 below and Directors and officers insurance as required under Section 10.3 below.

(i) The Board of Directors shall obtain workmen's compensation insurance for employees of the Association to the extent necessary to comply with any applicable law.

(j) The Board of Directors many also obtain such other policies of insurance as it deems appropriate.

***Section 10.2 Fidelity Coverage.*** The Association shall maintain fidelity insurance (which may include a fidelity bond) as required by this Section 10.2.

(a) Fidelity insurance shall provide for the indemnification of the Association against loss resulting from acts or omissions arising from fraud, dishonesty, or criminal acts by (i) any officer, Director, management agent, or other agent or employee charged with the operation or maintenance of the Association who controls or disburses funds, and (ii) any management company employing a management agent or other employee charged with the operation or maintenance of the Association who controls or disburses funds.

(b) The amount of the fidelity insurance shall equal at least the lesser of (i) three (3) months' worth of gross Annual Assessments and the total amount held in all investment accounts of the Association at the time the fidelity insurance is issued, or (ii) Three Million Dollars ($3,000,000).

(c) Fidelity insurance policies shall contain waivers by the insurers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.

(d) A copy of the fidelity insurance policy or fidelity bond shall be included in the books and records kept and made available by or on behalf of the Association.

***Section 10.3 Directors and Officers Insurance.***

(a) The Association shall maintain liability insurance for Directors and officers of the Association with coverages not less than those provided for in Section 10.3(b) below. The Board of Directors shall require that all officers, Directors and employees of the Association regularly handling or otherwise responsible for the funds of the Association shall be covered by adequate fidelity insurance or equivalent coverage against acts of dishonesty, with coverage as set forth in Section 10.2 above. The premiums on such Directors and officers and fidelity insurance shall be paid by the Association.

(b) The Association shall maintain insurance covering liability incurred as a result of the acts or omissions (sometimes called errors and omission insurance) of the Association's Directors, officers and agents in providing services or performing duties on behalf of the Association. Such insurance shall have minimum coverage of One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) annual aggregate, or such other amounts as may be determined from time to time by the Board of Directors in its reasonable discretion. Further, the deductible amount for such insurance coverage (i) shall not be greater than Ten Thousand Dollars ($10,000) per occurrence, or (ii) if there is coinsurance, a rate of coinsurance not greater than twenty percent (20%).

(c) To the extent reasonably available, Directors and officers liability insurance shall include a "Legal Expense Indemnity Endorsement", or its equivalent, affording protection for Directors and officers of the Association for expenses and fees incurred by any of them in defending any suit or settling any claim, judgment or cause of action to which any such Director or officer shall have been made a party by reason of his or her services as such.

***Section 10.4 Limitations and Requirements.*** Any insurance obtained pursuant to the requirements of this Article shall be subject to the following provisions:

(a) All insurance policies shall be written or reinsured with a company or companies licensed to do business in the State of North Carolina which has a current rating by the Best's Key Rating Guide of A- or better (or its equivalent).

(b) At the Declarant's option, any insurance coverage for the Association may be provided under a blanket policy of the Declarant or its affiliates.

(c) Exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors, or its authorized representative.

(d) In no event shall the insurance coverage obtained and maintained pursuant to the requirements of this Article be brought into contribution with insurance purchased by the Owners of the Lots or their Mortgagees and any "no other insurance" or similar clause in any policy obtained by the Association pursuant to the requirements of this Article shall exclude such policies from consideration.

(e) All policies shall provide that such policies may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to any and all insureds named thereon.

(f) All policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Board of Directors, the officers of the Association, the Owners, the Declarant, and their respective agents, employees or tenants, and of any defenses based upon co-insurance or invalidity arising from the acts of the insured.

(g) Insurance policies obtained by or on behalf of the Association shall name the Association as an insured and, to the extent reasonably feasible, shall name the Declarant as an additional insured.

(h) All policies shall otherwise comply with the provisions of the Act, including specifically those set forth in N.C. Gen. Stat. §47F-3-113.

***Section 10.5 Adjustments to Insurance Coverage.*** Notwithstanding any provision of this Article 10 or other provisions of this Declaration or other Governing Documents, subject to the requirements of the Act, the insurance requirements and provisions of this Article 10 or otherwise in the Governing Documents may be changed or modified from time to time by the Board of Directors in consultation with insurance professionals to reflect changes in insurance terminology, changes in customary insurance coverage for similar properties, because certain requirements or coverages are not feasible, obtainable, or are prohibitively expensive, or such other reasons as may be determined by the Board of Directors to be in the best interests of the Association.

***Section 10.6 Repair and Reconstruction of Common Area After Fire or Other Casualty.*** In the event of damage to or destruction of any portion of the Common Area covered by insurance payable to the Association as a result of fire or other casualty, the Board of Directors shall arrange for the prompt repair and restoration thereof, and shall have the right and obligation to disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration, as appropriate. All damage or destruction to any portion of the Common Area shall be repaired or replaced. Promptly after a casualty causing damage or destruction of any portion of the Common Area for which the Association has the responsibility of maintenance, repair, and/or replacement, the Board of Directors shall obtain reliable and detailed estimates of the cost to restore the damaged portions of the Common Area to as good a condition as existed prior to the casualty. Such costs may include, without limitation, professional fees and premiums for such bonds as the Board of Directors may desire.

***Section 10.7 Insurance by Owners.***

(a) Each Owner of a Lot other than a Builder shall maintain: (1) property insurance on its Lot insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils, wind and hail, and flood (if flood insurance is required); and the total amount of such insurance after application of any deductibles shall be not less than one hundred percent (100%) of the cost of repairing, replacing, restoring or reconstructing all loss, damage or destruction to the applicable portion of the Property (including the deductible under any applicable insurance policies) or any part thereof, including all costs of adjusting the loss; inspections, investigations and reports as to the damage; permit and inspection fees, architectural and engineering fees; fees of the Association's Representative; demolition, removal and disposal fees; costs of securing and protecting the portions of the Property to be restored; accounting fees and costs; and attorneys' fees and costs; construction costs, and the Association's

fees and costs for reviewing the plans for the restoration and holding and disbursing the insurance proceeds and other funds. of the insured property at the time the insurance is purchased and at each renewal date; (2) liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Lot; and (3) insurance insuring personal property, additional living expense, and any other coverage obtainable to the extent and in the amount such Owner deems necessary to protect his own interest.

(b) If the insurance described in Subsection 10.7(a) is not reasonably available, the Owner promptly shall cause notice of that fact to be hand-delivered or sent by United States certified mail, return receipt requested, to the Association.

(c) Insurance policies carried pursuant to Subsection 10.7(a) shall provide that: (1) the Association is an additional insured under the policy to the extent of the Association's insurable interest; (2) the insurer waives its right to subrogation under the policy against the Association; (3) no act or omission by the Association, unless acting within the scope of the Association's authority on behalf of the Owner, will preclude recovery under the policy; and (4) if, at the time of a loss under the policy, there is other insurance in the name of the Association covering the same risk covered by the policy, the Owner's policy provides primary insurance.

An insurer that has issued an insurance policy under this section shall, upon written request, issue a certificate or memoranda of insurance to the Association, and any such policy shall provide the issuing insurer may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association.

***Section 10.8 Restoration by Owners.*** Any improvement on a Lot for which insurance is required under Subsection 10.7(a) which is damaged or destroyed shall be restored promptly by the Owner of such Lot unless: (1) restoration would be illegal under any State or local health or safety statute or ordinance; or (2) the Owners of all Lots so damaged or destroyed decide not to Restore by an eighty percent (80%) vote. The Owner of a Lot shall be responsible for the cost of restoration of any Improvement on such Lot in excess of insurance proceeds received by such Owner. If an Owner fails to insure as required pursuant to the provisions of Section 10.7(a) and such insurance would have covered a loss had such insurance been purchased and obtained, the Association may undertake the restoration of any Improvement on the Lot and assess the Owner the cost of all such repairs as an Individual Assessment.

## ARTICLE 11
## MANAGEMENT

***Section 11.1 Management Agent.*** The Board of Directors may employ for the Association a professional management agent or manager at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing, including, but not limited to, the following:

(a) to establish and provide for the collection of the Assessments provided for in this Declaration, with the approval of the Board of Directors, and to provide for the enforcement

of liens for Assessments in a manner consistent with the law and the provisions of this Declaration; and

(b) to provide for the care, upkeep, and maintenance of the Common Area; and

(c) to designate, hire and dismiss such personnel as may be required for the good working order, maintenance and efficient operation of the Common Area; and

(d) to promulgate (with the approval of the Board of Directors) and enforce such rules and regulations and such restrictions or requirements, "house rules" or the like as may be deemed proper respecting the use of the Common Area; and

(e) to provide such other services (including legal and accounting services) for the Association as may be consistent with law and the provisions of this Declaration.

## ARTICLE 12
## DISPUTE RESOLUTION

***Section 12.1 Claim Notice; Inspection.*** Every claim against the Declarant (including any of the Declarant's employees, agents or contractors) by the Association or any Owner(s) (each of the foregoing a **"Claimant"**) regarding the design, construction, or warranty of the Common Area that is not otherwise resolved by informal means shall be resolved pursuant to the requirements of this Article 12.

(a) The Claimant shall mail or otherwise deliver written notice to the Declarant specifying the defect or defects that are the subject of its claim, including specific identification of all portions of the Common Area that have manifested damage or otherwise indicate existence of a defect (the **"Claim Notice"**).

(b) The Declarant may make a written request to the Claimant to inspect the property identified in the Claim Notice (the **"Inspection Request"**). Within ten (10) days after receipt of the Inspection Request, the Association shall make available for inspection the property identified in the Claim Notice during normal working hours or other mutually agreed upon times. If the Claimant has engaged the services of a professional to prepare the contents of the Claim Notice, then the Claimant shall make the professional available to meet with and/or accompany the Declarant in inspecting the items in the Claim Notice.

(c) Such inspection shall be completed within forty-five (45) days after the date the subject property is first made available to the Declarant by the Association for inspection pursuant to Section 12.1(b). The Association shall continue to make the property available to the Declarant for inspection throughout the forty-five (45) day period. However, if such inspection is not reasonably capable of being completed within such forty-five (45) day period but the Declarant commences good faith efforts to commence such inspection within such forty-five (45) day period and thereafter diligently prosecutes such efforts to completion, such forty-five (45) day period shall be extended for the period of time reasonably necessary for the Declarant to commence and complete such inspection. The Declarant shall pay the costs of such inspection and shall restore the subject property to the condition that existed immediately before such inspection, if practicable, within a commercially reasonable period of time.

***Section 12.2 Settlement Statement and Conference; Declarant's Right to Repair.***

(a) The Declarant shall submit a written statement to the Claimant stating the Declarant's position regarding the items in the Claim Notice as well as a proposed settlement of the claim or claims identified in the Claim Notice and stating whether the Declarant proposes to do any repair work, pay the Association a cash amount, or both (the **"Settlement Statement"**). The Declarant shall have the right, in its sole discretion, to repair any items listed in the Claim Notice provided that such repair is undertaken and completed within a reasonable period of time and is performed within acceptable industry standards in effect when the building or other improvement was constructed. The Claimant shall provide the Declarant with all necessary access to the Common Area to perform such repairs.

(b) Within thirty (30) days after receipt of the Settlement Statement or other mutually agreed upon time, the Claimant shall hold a settlement conference with the Declarant to discuss the claim or claims identified in the Claim Notice and the proposed settlement stated in the Settlement Statement (the **"Settlement Conference"**). The Association shall be represented by at least a majority of the members of the Board of Directors at the Settlement Conference. The Claimant and the Declarant may be represented by attorneys and consultants at the Settlement Conference and any mutually agreed upon continuation thereof.

(c) If a settlement of the claim or claims identified in the Claim Notice is not reached within thirty (30) days after the Settlement Conference, or at any mutually agreed upon continuation thereof, the Claimant or Declarant may deliver to the other party, within thirty (30) days after the Settlement Conference, or any mutually agreed upon continuation thereof, a written request for nonbinding mediation. Either party to any such nonbinding mediation may elect to terminate such nonbinding mediation at any time, but not before the mediation has lasted at least three (3) hours, upon that party's determination that the nonbinding mediation has been unable to resolve the dispute, by giving written notice to the other party of such determination.

(d) Any notice, request, statement, or other communication required to be sent to the Declarant or the Claimant under this Article shall be mailed by first-class registered or certified mail, return receipt requested, sent by facsimile (provided the original is sent to the addressee on the same day by one of the other methods of delivery set forth in this Section), or personally served on the party entitled to receive such notice, request, statement or other communication.

***Section 12.3 Commencement of Action by the Association; Notice to Owners.*** The affirmative vote of: no less the lesser of (a) than two-thirds (2/3), or the maximum percentage allowed by the Act; of all votes entitled to be cast by the Owners shall be required in order for the Association to commence a legal action, administrative proceeding, assert a claim against or sue the Declarant or a Builder. Before the Association may bring an action for damages based on any claim or claims identified in a Claim Notice, the Association shall make reasonable efforts to disseminate to each Owner the following before a vote of the Owners:

(a) A statement of the claim of the Association against the Declarant;

(b) A copy of the written response of the Declarant to the claim of the Association, including any proposed settlement delivered by the Declarant to the Association;

(c) Summary information about the Settlement Conference and the mediation; and

(d) A statement of the reasonably anticipated consequences of proceeding with litigation, including the estimated costs of pursuing litigation (the form and content of such statement to be subject to the reasonable judgment of the Board of Directors).

***Section 12.4 Compliance.*** The Declarant and any Claimant may assert a substantial failure by the other to substantially comply with a material requirement of this Article 12 as a procedural deficiency in any action or proceeding, at law or in equity, involving the Declarant and such Claimant. If the court before which such action or proceeding is pending shall find that the Declarant or a Claimant has failed to substantially comply with a material requirement of this Article 12 and that the rights of a party have been substantially impaired, the parties shall be deemed to have consented to a stay in such action or proceeding, not to exceed ninety (90) days, during which the Declarant and the Claimant shall, in good faith, establish compliance with such material requirement.

***Section 12.5 Amendment.*** Notwithstanding any provision of this Declaration or the Bylaws to the contrary, no amendment to this Article 12 shall be made without the prior written consent of the Declarant, which consent shall be recorded among the Land Records, provided, however, that the Claimant and the Declarant may mutually agree, in writing, to modify or excuse any of the conditions or time periods set forth in this Article 12.

## ARTICLE 13
## PARTY FENCES AND SHARED IMPROVEMENTS

The rights and obligations of the Owners with respect to party fences and similar shared improvements constructed as part of the original construction within the Community shall be governed by the following:

***Section 13.1 General Rules of Law to Apply.*** Each improvement which is placed on the dividing line between separate dwellings shall constitute a "Shared Improvement". With respect to such Shared Improvement, each of the adjoining Owners shall assume the burdens of and be subject to an easement for that portion of the Shared Improvement on such Owner's Lot, and shall be entitled to the benefits of this Article 13. To the extent not inconsistent herewith, the general rules of law regarding liability for property damage due to negligence or willful acts or omissions, shall apply to Shared Improvements and their adjoining Owners.

***Section 13.2 Repairs of Damage Caused by One Owner and/or Resident.*** If any such Shared Improvement is damaged or destroyed through the act of one adjoining Owner and/or resident, so as to deprive the other adjoining Owner and/or resident of the full use and enjoyment of such Shared Improvement, then the Owner and/or resident responsible for such damage shall proceed forthwith to rebuild or repair such Shared Improvement to its original condition or the condition which existed immediately prior to the damage, without cost to the adjoining Owner and/or resident.

***Section 13.3 Changes to Shared Improvements.*** In addition to meeting the other requirements of this Declaration, and of any building code, zoning ordinance or similar governmental regulations or ordinances, any Owner proposing to modify, make additions to or rebuild a dwelling in any manner which requires the extension or other alteration of any Shared Improvement, shall first obtain the written consent of the adjoining Owner. Such consent shall not be unreasonably withheld, delayed or denied.

***Section 13.4 Right to Contribution Runs with Land.*** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

***Section 13.5 Dispute.*** In the event of a dispute between Owners with respect to the repair or rebuilding of a Shared Improvement or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter may be submitted to its Board of Directors or Covenants Committee who may (but shall not be required to) decide the dispute, and the decision of such Board of Directors or Covenants Committee shall be final and conclusive upon the parties.

## ARTICLE 14
## GENERAL PROVISIONS

***Section 14.1 Common Area Responsibilities.*** The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and any property, real or personal, for which the Association is delegated the responsibility pursuant to the Governing Documents, or any easement or lease agreement, and all improvements thereon (including, without limitation, furnishings and equipment related thereto, private drainage facilities and common landscaped areas), and shall keep the Common Area and such other property in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions of this Declaration. The Association shall accept title to any real estate or personal property offered to the Association by the Declarant.

***Section 14.2 Personal Property and Real Property for Common Use.*** The Association may acquire, lease, hold, and dispose of tangible and intangible personal property and real property, subject to the requirements of this Declaration. The Board of Directors, acting on behalf of the Association, will accept any real or personal property, leasehold, or other property interests within the Development conveyed to it by the Declarant.

***Section 14.3 Implied Rights.*** The Association may exercise any right or privilege granted to the Association expressly by this Declaration, the Articles of Incorporation, the Bylaws, or any lease, easement or other agreement or document affecting the Association, as well as every other right or privilege reasonably to be implied from the existence of any right or privilege granted to the Association in this Declaration or reasonably necessary to effectuate any such right or privilege.

***Section 14.4 Security and Safety; Limitation of Liability.***

(a) Neither the Association, the Declarant, any affiliate of the Declarant, nor any of their respective successors or assigns, shall in any way be considered insurers or guarantors

of security within the Development, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or any ineffectiveness of security measures undertaken. No representation or warranty is made or implied that any fire protection system, burglar alarm system or other surveillance system or measures, including, without limitation, any mechanism or system for limiting access to the Development, 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 or security measures were designed or intended. Nothing in this Section shall be deemed in any way to obligate the Association, the Declarant, any affiliate of Declarant, nor any of their respective successors or assigns, to provide for or insure the general safety of any persons or property within any portion of the Development or to provide any fire protection system, burglar alarm system or other surveillance system, security access system, or similar measures with respect to any portion of the Development.

(b) Each Owner acknowledges, understands and covenants to inform its lessees, and all employees, occupants, guests, agents, and invitees of its Lot that the Association, the Declarant, any affiliate of the Declarant, and their respective successors and assigns, are not insurers and that each person using or present within the Development assumes all risks of personal injury and loss or damage to property, by theft or otherwise, including loss or damage to Lots or personal property, whether such personal property is maintained within a Lot or the Common Area.

(c) The Association shall not be liable for any failure of any services to be obtained or provided by the Association or paid for by Assessments, or for injury or damage to person or property caused by the elements or resulting from water which may leak or flow from any portion of the Common Area, or from any pipe, drain, conduit or the like. No diminution or abatement of Assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Area, or from any action taken by the Association. No provision of this Declaration shall relieve the Declarant of its contractual obligations.

***Section 14.5 Enforcement.*** The Governing Documents shall apply to all Owners, residents, agents, guests, lessees, and invitees of any Lot, and their respective representatives, employees, agents, and contractors. The Declarant, the Association, and any Owner shall have the right to enforce, by any proceeding at law and/or in equity, all restrictions, conditions, covenants, reservations, easements, liens, charges or other obligations or terms now or hereafter imposed by the provisions of the Governing Documents and any rule or regulation promulgated by the Association pursuant to its authority as provided in the Governing Documents. Failure by the Declarant, the Association, or any Owner to enforce any covenant or restriction of the Governing Documents or rules and regulations of the Association shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any provision of the Governing Documents or rules and regulations of the Association cannot be adequately remedied exclusively by action at law or by recovery of damages. If the Association or any Owner successfully brings an action to extinguish a violation or otherwise enforce the provisions of the Governing Documents or rules and regulations of the Association, the costs of such action, including legal fees, shall become a binding, personal obligation of the Owner committing or responsible for such violation, and such costs shall also be collectible in the same manner as any other Assessment under the Governing

Documents (including, without limitation, interest for delinquent payment of such amounts, collection costs, late fees and reasonable attorneys' fees).

***Section 14.6 Self-Help.***

(a) If any Owner (a **"Defaulting Owner"**) fails to perform any of its obligations under this Declaration or the other Governing Documents, the Association shall have the right, but not the obligation, to cure such default in accordance with this Section. If the Association elects to pursue such self-help remedy, the Association shall give the Defaulting Owner and any Eligible Mortgagee of the Defaulting Owner written notice advising of the specific items that need to be remedied (the **"Initial Notice"**). If the Defaulting Owner fails to remedy such item(s) within ten (10) days after delivery of the Initial Notice (or fails to promptly commence and diligently pursue any of such item(s) that cannot reasonably be completed within such ten (10)-day period), then the Association may give further written notice to the Defaulting Owner and any Eligible Mortgagee of the Defaulting Owner of the Association's intention to take over and perform such item(s) itself (**"Cure Notice"**). If the Defaulting Owner fails to commence to remedy such item(s) within five (5) days after delivery of the Cure Notice or if, following such commencement, the Defaulting Owner fails diligently to prosecute the work, the Association may perform or cause to be performed such item(s) and the Association and its designees shall have all easements necessary to perform such work, and such actions shall not be deemed a trespass. If the Association is entitled to perform and does perform any such item(s) pursuant to this Section, the Defaulting Owner shall reimburse the Association for the direct and reasonable out-of-pocket costs incurred by the Association to perform the work, plus twenty percent (20%) of such costs as an administrative fee. Reimbursements under this Section shall be due and payable by the Defaulting Owner within fifteen (15) days after written request by the Association, accompanied by written evidence of the reimbursable costs. Any reimbursable costs payable pursuant to this Section shall be collectible to the same extent as any other Assessment under this Declaration (including, without limitation, interest for delinquent payment of such reimbursable costs, collection costs, late fees and reasonable attorneys' fees) and shall not be deemed a Special Assessment.

(b) Notwithstanding the provisions of subsection 14.6(a), if the Association in good faith deems that an emergency exists which requires the prompt cure of a default, the Association shall only be required to give such prior notice as is reasonable under the circumstances, which notice need not be written if written notice is not feasible under the circumstances.

(c) Declarant may exercise all rights and remedies of the Association under this Section 14.6 for the duration of the Declarant Control Period.

***Section 14.7 Fines.*** In addition to the means for enforcement provided elsewhere in this Declaration, the Association shall have the right to levy fines against an Owner or such Owner's guests, relatives, lessees or invitees, in the manner set forth in this Section 14.7, and such fines shall be collectible in the same manner as any other Assessment, subject to applicable law.

(a) The Board of Directors shall be charged with determining whether there is probable cause that any of the provisions of the Governing Documents regarding the use of the Lots, Common Area or other Association property are being or have been violated. In the event that the Board of Directors determines an instance of such probable cause, the Board shall provide written notice to the person alleged to be in violation, and the Owner of the Lot which that person occupies or is visiting if such person is not the Owner, of the specific nature of the alleged violation and of the opportunity for a hearing before the Board of Directors upon a request made within five (5) days of the sending of such notice. The notice shall also specify, and it is hereby provided, that each recurrence of the alleged violation or each day during which it continues shall be deemed a separate offense subject to a separate fine not to exceed a reasonable amount established by the Board for each offense. The notice shall also specify, and it is hereby provided, that in lieu of requesting a hearing, the alleged violator or Owner may respond to the notice within five (5) days of its sending, acknowledging in writing that the violation occurred as alleged and promising that the violation will henceforth cease and will not recur, and that such acknowledgment and promise, and performance in accordance therewith, shall terminate the enforcement activity of the Association with regard to such violation.

(b) If a hearing is timely requested, the Board of Directors shall hold the same and shall hear any and all defenses to the charges, including any witnesses that the alleged violator, Owner, the Board of Directors may produce. Any party at the hearing may be represented by counsel.

(c) Subsequent to any hearing, or if no hearing is timely requested and if no acknowledgment and promise is timely made, the Board of Directors shall determine whether there is sufficient evidence of a violation or violations. If the Board of Directors determines that there is sufficient evidence, it may levy a fine for each violation in the amount provided in this Declaration.

(d) A fine pursuant to this Section shall be assessed against the Lot which the violator occupied or was visiting at the time of the violation, whether or not the violator is an Owner of that Lot, and shall be collectible in the same manner as any other Assessment, subject to applicable law. Nothing in this Declaration shall be construed to interfere with any right that an Owner may have to obtain payment of the amount of any fine(s) assessed against his or her Lot from a violator occupying or visiting such Lot.

(e) Nothing in this Declaration shall be construed as a prohibition of or limitation on the right of the Association to pursue any other means of enforcement of the provisions of the Governing Documents, including, but not limited to, legal action for damages or injunctive relief.

(f) The Board of Directors may delegate its rights and responsibilities under this Section 13.7 to a covenants committee or similar committee of the Association established by the Board of Directors or to the management agent for the Association.

***Section 14.8 Rules and Regulations.*** There shall be no violation of any rules or regulations for the use of the Common Area or other rules and regulations for the Development that are consistent with the provisions of this Declaration, including, without limitation, such rules and

regulations that from time to time may be adopted by the Board of Directors and provided to the Owners. The Board of Directors is hereby and elsewhere in this Declaration and the Bylaws authorized to adopt such rules and regulations. During the Declarant Control Period, no rules or regulations of the Association shall be binding upon Declarant or its designees without the express written consent of the Declarant.

***Section 14.9 Severability.*** Invalidation of any one of the covenants, conditions, restrictions, or other provisions of this Declaration by judgment or court order shall in no way affect any other provisions of this Declaration, which shall remain in full force and effect.

***Section 14.10 Duration and Amendment.*** All covenants, conditions, restrictions, easements and other provisions set forth in this Declaration shall run with and bind the land and shall be perpetual unless expressly stated otherwise in this Declaration. Except as otherwise provided in this Declaration, this Declaration may be amended by an instrument signed by or on the affirmative vote of Owners entitled to cast not less than seventy-five percent (75%) of the total votes in the Association and with the consent of the Declarant during the Declarant Control Period. Any amendment to this Declaration must be recorded in the Land Records.

***Section 14.11 Changes and Modifications by the Declarant.***

(a) Notwithstanding Section 14.10 above but subject to Section 14.14 below, the Declarant shall have the right, during the Declarant Control Period, without the consent of any Owner or any other party, to modify, amend or change any of the provisions of this Declaration or other Governing Documents as the Declarant may reasonably deem necessary or desirable (i) to correct errors or omissions herein; (ii) to bring any provision of this Declaration into compliance with any applicable governmental statute, rule, regulation, or judicial determination which is in conflict therewith; (iii) in response to changes in the Development Plans; (iv) to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Development; (v) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans to make, purchase, insure or guarantee such mortgage loans; (vi) to satisfy the requirements of any governmental or quasi-governmental agency or public of private utility company; (vii) to confirm or establish easements and other rights pursuant to Article 7 or otherwise in this Declaration, (viii) to record such other instruments contemplated under the rights and responsibilities reserved to the Declarant in this Declaration, and (ix) to consolidate amendments to this Declaration or any other Governing Document into a single amended and restated instrument. The Declarant also has the right, without the consent of any Owner or any other party, to record instruments of annexation and deannexation pursuant to Article 2 of this Declaration, and to assign any of the Declarant's rights pursuant to Section 14.16 below.

(b) Notwithstanding Section 14.10 above but subject to Section 14.14 below, the Declarant shall have the right, during the Declarant Control Period, without the consent of any Owner or any other party, to enter into any and all zoning approvals, preliminary plans, site plans, plats, public works agreements, dedication deeds and agreements, development agreements, applications, permits, easements, licenses, and amendments to any of the foregoing, and any other instruments as the Declarant may from time to time be deemed necessary or desirable by the Declarant in connection with the development of the Development.

(c) Notwithstanding any provision of the Governing Documents but subject to Section 14.14 below, there is hereby reserved unto the Declarant an irrevocable power of attorney, coupled with an interest, for the purpose of executing, acknowledging and delivering on behalf of all Owners, contract purchasers of any portion of the Development (including, without limitation, contract purchasers of Lots), Mortgagees, other lienholders, and any other parties having any legal or equitable interest in any portion of the Development (collectively **"Interested Parties"** and individually an **"Interested Party"**), any and all instruments contemplated in Sections 14.11(a) and (b) above. Each Interested Party shall be deemed to have consented to all such instruments and shall be deemed to have granted unto the Declarant an irrevocable power of attorney, coupled with an interest, to effectuate, execute, acknowledge and deliver any such instruments. Further, each Interested Party shall be deemed to have agreed and covenanted to execute such further assurances and instruments, if any, as may be required by the Declarant and its successors or assigns, to properly accomplish such purposes. The power of attorney provided for in this Section is expressly declared and acknowledged to be coupled with an interest and the same shall run with the title to all Lots and shall be binding upon the heirs, personal representatives, successors, transferees and assigns of all Interested Parties. Further, such power of attorney shall not be affected by the death or disability of any principal and is intended to deliver all right, title and interest of the principal in and to the power of attorney.

***Section 14.12 Casualty Losses.*** In the event of substantial damage or destruction to any of the Common Area, the Board of Directors shall give prompt written notice of such damage or destruction to the Eligible Mortgagees who hold First Mortgages of record on affected Lots. No provision of the Governing Documents shall entitle any Owner to any priority over the holder of any First Mortgage of record on such Owner's Lot with respect to the distribution to such Owner of any insurance proceeds paid or payable on account of any damage or destruction of any of the Common Area.

***Section 14.13 Condemnation or Eminent Domain.*** In the event any part of the Common Area is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors shall give prompt written notice of any such proceeding or proposed acquisition to the Eligible Mortgagees who hold First Mortgages of record on affected Lots. No provision of the Governing Documents shall entitle any Owner to any priority over the holder of any First Mortgage of record on such Owner's Lot with respect to the distribution to such Owner of the proceeds of any condemnation or settlement relating to a taking of any of the Common Area.

***Section 14.14 Notice to Eligible Mortgagees; Deemed Consent.***

(a) The Association shall give prompt written notice to each Eligible Mortgagee, at the address provided by such Mortgagee and on file with the Association, of the following actions (and each Owner hereby consents to, and authorizes such notice):

(i) Any condemnation loss or any casualty loss which affects a material portion of the Common Area.

(ii) Any delinquency in the payment of Assessments or other charges of the Association with respect to a Lot subject to a First Mortgage or security interest held, insured, or guaranteed, by such Eligible Mortgagee which remains uncured for a period of sixty (60) days.

(iii) Any lapse, cancellation, or material modification of any insurance policy or fidelity coverage maintained by the Association.

(iv) Any other matter with respect to which Eligible Mortgagees are entitled to notice or to give their consent as provided in this Declaration.

(b) To be entitled to receive notice of the matters in Section 14.14(a) above, the Eligible Mortgagee must send a written request to the Association, stating both its name and address and the Lot designation or address of the Lot on which it has (or insures or guarantees) a First Mortgage.

(c) Any Eligible Mortgagee that is notified of any matter for which it is entitled to notice under this Section 14.14 (such notice to be delivered by certified or registered mail, return receipt requested), and that fails to respond within thirty (30) days of receipt of such notice shall be deemed to have consented, if applicable, to the matter of which the Eligible Mortgagee was provided notice. In addition, to the extent the Association seeks the consent of any other Mortgagee for any matter, notice of such matter shall be delivered by certified or registered mail, return receipt requested to such Mortgagee and if such Mortgagee fails to respond within thirty (30) days of receipt of such notice, such Mortgagee shall be deemed to have consented, if applicable, to the matter of which the Mortgagee was provided notice.

***Section 14.15 Taxes and Assessments.*** It is the intent of this Declaration that insomuch as the interests of each Owner to use and enjoy the Common Area (and any other property to which such Owner may have a right of use and enjoyment) are interests in real property appurtenant to the Lots, the value of the interest of each Owner in the Common Area (or other property) shall be included in the assessment for each such Lot. As a result, it is intended that any tax assessment directly against the Common Area or other property for which the Association is responsible for the payment of real estate taxes shall be of a nominal nature reflecting that the full value of the same should be included in the several tax assessments of the various Lots.

***Section 14.16 Successors of Declarant.*** Any and all obligations, rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant under this Declaration, or any part of them, may be assigned and transferred (exclusively or non-exclusively) by the Declarant by an instrument, in writing, without notice to the Association.

***Section 14.17 No Dedication to Public Use.*** Nothing in this Declaration shall be construed as (i) a dedication of any portion of the Development to the general public or for any public use, or (ii) an acceptance for maintenance of any Common Area by any public or municipal agency, authority, or utility, and no public or municipal agency, authority or utility shall have any responsibility or liability for the maintenance or operation of any of the Common Area.

***Section 14.18 Declarant Reserved Rights; Declarant Consent.*** No amendment to the Governing Documents may remove, revoke, or modify any right, reservation or privilege of the Declarant without the prior written consent of the Declarant or any successors or assignees of the

Declarant pursuant to Section 14.16. Whenever the consent or approval of the Declarant is required under the Governing Documents, such consent or approval may be given or withheld in the sole discretion of the Declarant and any affirmative consent or approval shall be in writing.

***Section 14.19 Declarant Development.*** As long as the Declarant or any of its affiliates has an interest in the Development, the Association may not use its financial resources, directly or indirectly, to defray the costs of opposing any development activities reasonably consistent with the general intention of the Development Plans. Nothing in this Section shall be construed to limit the rights of Owners to act as individuals or in affiliation with other Owners or other groups.

***Section 14.20 Conveyance of Common Area by the Declarant.*** The Declarant or its affiliates may convey unimproved or improved land to the Association to be held as Common Area and may construct improvements on any Common Area. Any Common Area conveyed shall be conveyed in a finished and well-maintained condition, by special warranty deed. The consent of the Association shall not be required for such conveyance or construction. The Declarant or its affiliates shall have the right to permit the Association and its Owners to enjoy and utilize property that has not been conveyed to the Association but which is intended to become Common Area The Association shall have the right and obligation to maintain such property and levy Assessments for maintenance costs, notwithstanding that such property has not yet been conveyed to the Association.

***Section 14.21 Declarant's Financing Encumbrances.*** Any portion of the Development owned by the Declarant may be subject to any mortgage, deed of trust, or other security instrument (including any modification, extension, renewal, or consolidation of the same) now or hereafter made in connection with the acquisition, construction, or development of the Development or for any other purpose as determined by the Declarant in its sole discretion.

***Section 14.22 Estoppel Certificates.*** The Association shall, upon request by any Owner or Mortgagee, issue such Owner or Mortgagee a written estoppel certificate signed by an officer of the Association stating that, to the best of such officer's knowledge, either (i) the Owner is in compliance with the Governing Documents, or (ii) that the executing officer has reason to believe that the Owner is in default or otherwise not in compliance with the Governing Documents and the basis for such belief. Any estoppel certificate may also contain such additional provisions that the Board of Directors agrees to in its reasonable judgment. A properly executed estoppel certificate issued pursuant to this Section 14.22 shall be binding on the Association as of the date of issuance. The Association may charge a reasonable fee for the issuance of each such estoppel certificate.

***Section 14.23 Notices.*** Unless expressly provided otherwise, all notices, requests, demands or other communications under this Declaration or the other Governing Documents shall be in writing and deemed given (i) when delivered personally, with signed receipt of delivery, (ii) the business day after it is deposited with a recognized overnight courier service which requires signed receipt of delivery, (iii) when sent by facsimile with evidence of transmission and receipt, provided the original is sent on the same day by one of the other methods set forth in this Section, or (iv) when delivered or deemed delivered by such other method as may be approved by the Board of Directors from time to time by notice to all Owners and consistent will all applicable laws. However, all notices of a change of address shall be deemed to have been given when received.

(a) All notices to the Declarant shall be sent to Glen Oaks-South, LLC, 506 Main Street, Suite 300, Gaithersburg, Maryland 20878, or to such other address as the Declarant may provide to the Association from time to time.

(b) All notices to the Association and/or the Board of Directors shall be sent c/o the management agent for the Association, with a copy to the Declarant during the Declarant Control Period.

(c) All notices to an Owner shall be sent to the Lot address for such Owner or such other address as the Owner may provide to the Association.

(d) All notices to Eligible Mortgagees shall be sent to the address provided to the Association in accordance with Section 14.14 above.

***Section 14.24 Non-Merger.*** Notwithstanding that all or any portion of the Development may now or in the future be owned by the same person or entity, the easements and rights granted under this Declaration shall not be deemed extinguished by merger.

***Section 14.25 Perpetuities.*** If any of the covenants, restrictions, or other provisions of this Declaration shall be unlawfully void, or voidable for violation of the rule against perpetuities, then such provision shall continue only until twenty-one (21) years after the death of the last member of the 115th United States Congress.

***Section 14.26 Captions and Gender.*** The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the plural, and vice versa.

***Section 14.27 Conflict.*** In the event of any conflict or inconsistency between this Declaration and/or the Articles of Incorporation or the Bylaws, the provisions of this Declaration shall control.

***Section 14.28 Exhibits.*** All Exhibits attached to this Declaration are made a part of this Declaration and are incorporated into this Declaration by reference.

## ARTICLE 15
## DISSOLUTION OF THE ASSOCIATION

***Section 15.1 Dissolution or Insolvency of the Association.*** The Association shall be dissolved upon the termination of this Declaration, or upon the written assent given in writing and signed by not less than eighty percent (80%) of the Members of each class of members, or upon such more restrictive additional conditions and in such manner as otherwise provided by the Laws of the State of North Carolina. Upon dissolution or insolvency of the Association or upon loss of ownership of the Common Area (once such ownership has been acquired) by the Association for any reason whatsoever (except for exchange or dedication or conveyance of any part or all of the Common Area as allowed by this Declaration or by reason of merger and/or consolidation with any other association as allowed by this Declaration), any portion of the Common Area not under the jurisdiction of the Town of Wake Forest and being maintained by the Association, shall be

offered to the Town of Wake Forest, North Carolina, or to some other appropriate governmental entity or public agency (as determined by the Board) as to be dedicated for public use for purposes similar to those to which the Common Area and such assets were required to be devoted by the Association.

(a) If the Town of Wake Forest or such other appropriate governmental entity or public agency accepts the offer of dedication, such portion of the Common Area and assets shall be conveyed by the Association to the Town of Wake Forest or such other appropriate governmental entity or public agency, subject to the superior right of the Owner of each Lot to an easement (if necessary) for reasonable ingress and egress to and from such Owner's Lot and the public or private street(s) on which such Lot is located, and subject to all other applicable rights of way and easements and subject to ad valorem property taxes subsequent to the date of such conveyance.

(b) In the event that the Town of Wake Forest or such other appropriate governmental entity or public agency refuses the offer of dedication and conveyance, the Association may transfer and convey such Common Area and assets to any nonprofit corporation, association, trust or other entity which is or shall be devoted to purposes and uses that would nearly conform to the purposes and uses to which the Common Area was required to be devoted by this Declaration, such conveyance to be made subject to the rights of Owners and other matters set forth in the immediately preceding paragraph.

IN WITNESS WHEREOF, the undersigned Declarant has executed this instrument this 6th day of January, 2020

**GLEN OAKS-SOUTH, LLC**, a Maryland limited liability company

By: Natelli Communities-South, LLC,
a Maryland limited liability company, its Sole Member

By: Natelli Communities Limited Partnership,
a Maryland limited partnership, its Sole Member

By: Natelli Communities, Inc., a Maryland corporation,
its General Partner

By: _____(SEAL)
Michael J. Natelli., Executive Vice President

* * *

STATE OF Maryland *

* to wit:

CITY/COUNTY OF Montgomery *

I HEREBY CERTIFY that on this 6th day of January, 2020 before me, a Notary Public, personally appeared Michael J. Natelli , who acknowledged himself to be the Executive Vice President of Natelli Communities Inc., the General Partner of Natelli Communities Limited Partnership, the Sole Member of Natelli Communities-South, LLC, the Sole Member of Glen Oaks-South Creek, LLC, and that he, in such capacity and being authorized to do so, executed the foregoing and annexed instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Elaine B. Haraway
Notary Public

My Commission Expires: 04/25/2022

[NOTARIAL SEAL]

ELAINE B. HARAWAY NOTARY PUBLIC MONTGOMERY COUNTY, MD

The undersigned lien holder does hereby consent to the aforesaid Declaration of Covenants, Conditions and Restrictions for the herein described real property and, by the signature of its Trustee(s), does hereby grant and convey any herein described easements to Grantee as legal title holder of the therein described property and does hereby further agree that such instrument shall survive any sale under its Future Advance Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated January 16, 2019, and recorded in the offices of the Register of Deeds of Franklin County, North Carolina, in Book 2168, at Page 1457.

WITNESS:

BB&T Collateral Service Corporation, a Virginia corporation, as Trustee for Branch Banking and Trust company

By: Charles M Gebbert
CHARLES M GEBBERT
VICE PRESIDENT

STATE OF Virginia *
* To wit:
CITY/COUNTY OF: Fairfax *

I HEREBY CERTIFY that on this 13th day of January, 2020, before me, a Notary Public, personally appeared Charles M Gebbert, known to me (or satisfactorily proven) to be Senior Vice President of BB&T Collateral Service Corporation, as Trustee of Branch Banking and Trust Company, and that (s)he, in such capacity and being authorized to do so, executed the foregoing and annexed instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Catina Deann Terrell
Notary Public

My Commission Expires: 7-31-2020.

CATINA DEANN TERRELL
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES JULY 31, 2020
COMMISSION # 7694902

# EXHIBIT A

Lying and being situate in Franklin County, North Carolina, and being more particularly described as follows:

Beginning At point, said point being an Axle located in the Northeastern most corner of the parcel having NC Grid coordinates of N(y)=825,914.46', E(x)=2,145,831.85' NAD '83, Thence along the western line of Rolling Hills Subdivision Thence S 04°29'41" E A Distance Of 389.62', Thence S 04°30'16" E A Distance Of 1304.05' to a Stone in the rear line of Richland Hills Subdivision, Thence along the line of Richland Hills Subdivision N 89°24'18" W A Distance Of 608.99', Thence N 89°22'52" W A Distance Of 289.64', Thence S 89°37'15" W A Distance Of 250.62', Thence N 87°49'38" W A Distance Of 142.39', Thence N 89°28'01" W A Distance Of 82.29', Thence N 89°32'46" W A Distance Of 106.84', Thence N 89°32'46" W A Distance Of 19.96', Thence N 89°33'01" W A Distance Of 469.05' to an existing iron pipe, Thence leaving said subdivision line N 00°33'04" E A Distance Of 210.00', Thence N 89°26'56" W A Distance Of 43.27', Thence N 00°33'04" E A Distance Of 73.92', Thence N 00°33'04" E A Distance Of 129.07' to a point in the centerline of a creek, Thence along the creek the following bearings and distances S 21°45'17" E A Distance Of 9.88', Thence S 57°21'34" E A Distance Of 16.42', Thence N 68°36'31" E A Distance of 49.76', Thence S 15°04'50" E A Distance Of 21.39', Thence N 64°07'39" E A Distance Of 27.78', Thence S 13°01'12" E A Distance Of 24.67', Thence S 73°17'12" E A Distance Of 32.45', Thence S 73°17'12" E A Distance Of 5.44', Thence S 67°03'05" E A Distance Of 27.44', Thence S 74°30'46" E A Distance Of 47.49', Thence S 23°23'38" E A Distance Of 12.03', Thence S 51°57'02" E A Distance Of 4.60', Thence N 85°20'43" E A Distance Of 41.90', Thence N 27°31'55" E A Distance Of 23.98', Thence N 77°47'01" W A Distance Of 20.03', Thence N 03°27'37" W A Distance Of 43.47', Thence N 20°32'40" W A Distance Of 41.88', Thence N 10°16'27" W A Distance Of 19.55', Thence N 53°56'38" W A Distance Of 22.21', Thence N 78°48'23" W A Distance Of 23.64', Thence N 18°27'03" W A Distance Of 15.31', Thence N 37°04'06" E A Distance Of 14.98', Thence N 55°13'21" W A Distance Of 26.76', Thence N 41°30'43" W A Distance Of 36.32', Thence N 22°25'40" W A Distance Of 28.79', Thence N 18°49'39" W A Distance Of 20.44', Thence N 50°05'35" W A Distance Of 8.76', Thence N 24°10'20" W A Distance Of 9.45', Thence N 86°53'54" W A Distance Of 19.56', Thence N 18°00'23" W A Distance Of 13.29', Thence N 04°52'19" W A Distance Of 18.56', Thence N 34°22'25" W A Distance Of 36.15', Thence N 37°58'40" W A Distance Of 14.21', N 19°20'52" W A Distance Of 42.93', Thence N 05°06'44" W A Distance Of 19.20', Thence N 08°57'37" W A Distance Of 28.81', Thence N 08°23'14" W A Distance Of 37.05', Thence N 59°41'59" W A Distance Of 20.34', Thence S 83°28'08" W A Distance Of 15.93', Thence N 52°00'29" W A Distance Of 21.07', Thence N 18°06'42" W A Distance Of 34.21', Thence N 27°48'01" W A Distance Of 15.74', Thence N 59°46'22" E A Distance Of 12.06', Thence N 06°27'32" W A Distance Of 13.00', Thence N 60°15'49" W A Distance Of 13.91', Thence N 12°29'49" W A Distance Of 4.79', Thence N 28°14'36" W A Distance Of 27.60', Thence N 35°41'10" E A Distance Of 15.63', Thence N 03°52'23" W A Distance Of 30.95', Thence N 22°21'41" W A Distance Of 32.16', Thence N 25°49'04" E A Distance Of 14.70', Thence leaving said creek N 21°50'37" W A Distance Of 123.58', Thence N 27°01'38" E A Distance Of 110.00', Thence N 63°00'37" W A Distance Of 350.12' to a point on the eastern right of way of US Hwy 1, Thence along said right of way Thence along A Curve To The Right With An Arc Length Of 60.05', A Radius Of 19017.98', A Chord Bearing Of N 28°29'20" E, and A Chord Length Of 60.05', Thence leaving said right of way S 62°58'22" E A

Distance Of 300.11', Thence along A Curve To The Right With An Arc Length Of 422.07', A Radius Of 18717.98', A Chord Bearing Of N 29°15'00" E, and A Chord Length Of 422.06', Thence S 89°51'58" E A Distance Of 82.55', Thence S 89°51'58" E A Distance Of 159.88', Thence S 89°51'58" E A Distance Of 180.04', Thence S 89°51'58" E A Distance Of 40.18', Thence S 89°51'58" E A Distance Of 139.70', Thence S 89°51'58" E A Distance Of 219.86', Thence S 89°51'58" E A Distance Of 50.79', Thence S 89°51'58" E A Distance Of 194.08', Thence S 89°51'58" E A Distance Of 104.08', Thence S 89°51'58" E A Distance Of 6.00', Thence S 89°51'58" E A Distance Of 109.85', Thence S 89°51'58" E A Distance Of 109.95', Thence S 89°51'58" E A Distance Of 140.17', Thence S 89°51'58" E A Distance Of 191.85', To The Point and place Of Beginning, Containing 74.086 Acres, according to a survey entitled "ALTA/NSPS Survey for Greenepointe, LLC" by L. Jordan Parker, Jr. PLS, dated February 16, 2016, last revised July 27, 2018.

The above is also shown and described on that certain plat entitled "Survey for Greenepointe, LLC" prepared by Michael A. Moss, PLS, with Cawthorne, Moss & Panciera, P.C., recorded in Plat Book 2019, Page 8, as corrected in Plat Book 2019, Page 12, Franklin County Registry.