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Prepared By and Mail To: David E. Miller, III
Morris, Russell, Eagle & Worley, PLLC
2235 Gateway Access Point, Suite 201
Raleigh, NC 27607

DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

RETREAT AT RENAISSANCE

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

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

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.

Submitted electronically by "Morris, Russell, Eagle & Worley, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Wake County Register of Deeds.

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR RETREAT AT RENAISSANCE

THIS **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR** (the "Declaration") is made this 10th day of October, 2017, by SM Raleigh, LLC, a North Carolina limited liability company (also referred to herein as the "Declarant").

BACKGROUND:

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

AND WHEREAS, Declarant has developed/is developing the Property, and may develop any Additional Property annexed to this Declaration pursuant to the terms hereof, less any real property withdrawn from this Declaration, all real property subject to this Declaration being referred to herein together as the "Properties", or "Community" or "Subdivision", into a residential townhomes subdivision known as "Retreat at Renaissance" or "The Retreat at Renaissance" in accordance with the Legal Requirements of applicable Governmental Authorities, which development may include, but shall not be required by this Declaration to include, any one or more of the following: residential townhomes; public or private streets; public and private utilities; public and private utility easements; stormwater drainage easements, systems and facilities; buffers; open space; streetscapes; associated parking; and other uses consistent with the zoning of the Properties and the Governmental Authority approvals for the Subdivision;

AND WHEREAS, the purposes of this Declaration include establishing a general plan of development for the Properties, providing for the maintenance and upkeep of the Lots, Dwellings, and Common Elements in the Properties, providing for enforcement of this Declaration, protecting the value and desirability of the Properties, and, in furtherance of the foregoing, subjecting the Properties to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and each owner of any part or all thereof;

AND WHEREAS, in furtherance of the foregoing, Declarant has incorporated under the nonprofit corporation laws of the State of North Carolina **RETREAT AT RENAISSANCE HOMEOWNERS ASSOCIATION, INC.** (the "Association") to own and/or maintain and/or administer Common Elements, to administer and enforce this Declaration and any other covenants, restrictions, and agreements applicable to the Subdivision that the Association is authorized to administer and enforce, and to collect and disburse the assessments and charges provided for herein;

NOW, THEREFORE, Declarant hereby declares that the Properties, including without limitation, every Lot (as hereinafter defined) which is a part of the Properties, shall be owned, held, transferred, sold, conveyed, leased, used, occupied and mortgaged subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Properties and shall be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

The words and terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified in one or more of the Governing Documents. The following words and terms, when used anywhere in this Declaration (including the Recitals) or any amendment hereto, or in any Supplemental Declaration, unless subsequently amended or unless the context clearly indicates otherwise, are defined as follows and are subject to the provisions contained in such definitions (when these and other defined words or terms herein have an initial capital letter or letters, however, it is not required that their use in the Declaration, any amendment hereto, or any Supplemental Declaration, have initial capital letters in order to have the defined meaning). Terms and words used herein without definition shall have the meanings, if any, specified therefor as defined in the Act, or if not defined in the Act, as defined in the Nonprofit Corporation Act, or if not defined in either the Act or Nonprofit Corporation Act, as defined in the Brownfields Property Reuse Act, and if not defined in the Act, Nonprofit Corporation Act, or the Brownfields Property Reuse Act, as defined in the Code, and, in the event of any conflict between the definitions contained herein and the definitions contained in the Act, the Nonprofit Corporation Act, Brownfields Property Reuse Act or the Code, then the Act, Nonprofit Corporation Act, Brownfield Property Reuse Act, Code and this Declaration, in that order and as appropriate, shall control. Multiple words or terms defined by the same definition are used interchangeably herein. It should be noted that one or more definitions contain provisions in addition to the defined word or terms, and such additional provisions are part of this Declaration in the same manner and to the same extent as if they had been set out in an Article or Section of this Declaration other than this Article I. Definitions of words and terms in other portions of this Declaration also are subject to the foregoing provisions of this paragraph. Declarant has the authority to resolve any dispute over any definition of a word or term defined in this Declaration.

(a) "Act" is defined as the North Carolina Planned Community Act, as it exists from time to time, it currently being contained in Chapter 47F of the North Carolina General Statutes, and including all amendments, supplements, and replacements thereof.

(b) "Additional Property" is defined as any real property that is not part of the Properties and is located within one (1) mile of any boundary of the Properties.

(c) "Amenities" is defined as the improvements, if any, constructed, erected, installed or existing on the Common Elements for the common use, benefit and enjoyment of the Properties by the Owners. Declarant and the Association are not obligated by this Declaration to construct any amenities.

(d) "Annexation Declaration" is defined as a document, by whatever name denominated, that is recorded in whole or in part for the purposes of annexing Additional Property to this Declaration. Upon annexation to this Declaration, Additional Property becomes part of the Properties.

(e) "Architectural Committee" or "Architectural Review Committee" is defined as a committee of one or more individuals appointed by the Declarant or the Board to review Plans, as more particularly provided herein, for improvements to be constructed, placed, altered, or maintained on any part of the Property.

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

(g) "Articles" is defined as the Articles of Incorporation of the Association, including all duly adopted amendments thereto.

(h) "Association" is defined as Retreat at Renaissance Homeowners Association, Inc., a North Carolina nonprofit corporation, or its successors or assigns.

(i) "Board of Directors" or "Board" is defined as those persons elected or appointed and acting collectively as the directors of the Association. The Board is the "executive board" as that term is defined in the Act.

(j) "Brownfields Agreement" is defined as that certain Brownfields Agreement re: Retreat at Renaissance, 398 South Franklin Street, Wake Forest, North Carolina (Project #20056-16-092) by and between the North Carolina Department of Environmental Quality and Declarant.

(k) "Brownfields Property Reuse Act" is defined as the Brownfields Property Reuse Act of 1997, as it exists from time to time, it currently being contained in Chapter 130A of the North Carolina General Statutes, and including all amendments, supplements, and replacements thereof.

(l) "Builder" is defined as a Person, other than the Declarant, who regularly is in the business of constructing Dwellings for sale to other Persons, and who purchases or becomes the Owner of one or more Lots for the purpose of constructing thereon one or more Dwellings for sale to other Persons. "Builders" refers to all such persons or entities collectively. Nothing herein shall prevent Declarant from constructing Dwellings on Lots in the Properties for resale to other Persons.

(m) "Bylaws" is defined as the bylaws of the Association that are in effect from time to time, including all duly adopted amendments thereto.

(n) "City" or "Town" is defined as the Town of Wake Forest, North Carolina (which also may be referred to herein separately as the "Town of Wake Forest"), in the County of Wake, North Carolina.

(o) "City Ordinance" is defined as any ordinance of the Town of Wake Forest regulating stormwater or the Stormwater Control Facilities, together with all valid amendments, supplements, and replacements thereof.

(p) "Code" is defined as the Town of Wake Forest ordinances, including all rules, regulations and policies lawfully adopted pursuant thereto, and including all amendments, supplements and replacements thereof.

(q) "Common Elements", or "Common Property", or "Common Area", is defined as any or all of the following:

1. Real property owned or leased by the Association, other than a Lot, including all improvements thereon;

2. Easement or other rights owned, held, or possessed by the Association in real property for the common use and enjoyment of the Owners and occupants of Dwellings in the Properties, together with such improvements in those easements constructed, installed, or placed in the easements by the Association or by the Declarant on behalf of the Association.

3. All of the items included in the definition of common areas, common property, or common elements (or other word or term used to describe common areas, common property, or common elements - for example, open space) in applicable sections of the Act or the Code;

4. All other items included in the definitions of Common Elements, Common Area or Common Property in any Governing Document;

5. Any property owned by the Association or for which the Association has or assumes responsibility for maintenance thereof pursuant to the terms of this Declaration, any Supplemental Declaration, or any other applicable covenants, contracts, or agreements;

6. All Common Areas, Common Property, Common Elements, and open space designated as such on any map or plat of the Properties or any part thereof recorded by Declarant in the Registry;

7. Retaining walls, if any, designated as Common Elements as provided herein; and

8. Other property determined by the Board from time to time to be part of the Common Elements.

All Common Elements shall be maintained by the Association as provided herein and the costs of such maintenance are Common Expenses. The foregoing definition of Common Elements in this Declaration is broader than the definition of "common elements" in the Act.

(r) "Common Expenses" (also "Common Expense") is defined as all expenditures made by or financial liabilities of the Association, including allocations to reserves, and including expenditures for all Association liabilities and obligations imposed by Legal Requirements, this Declaration, and/or other Governing Documents.

(s) "Community Wide Standard" is defined as the standard of conduct, maintenance, or other activity generally prevailing in the Properties, or the minimum standards established pursuant to the Governing Documents, whichever is a higher standard. At any time during the Development Period, any Community Wide Standard established by Declarant will control over any other Community Wide Standard applicable to the Properties or any part thereof. The Community Wide Standard may contain both objective and subjective elements. The Community Wide Standard may change as development of the Properties progresses and as the needs and desires within the Properties change.

(t) "contiguous" or "adjoining" is defined as having any common boundary with the subject property, or separated from a boundary of the subject property by a public or private street right of way or a greenway easement or by property owned by a Governmental Authority.

(u) "County" is defined as the County in which the Properties, or any part thereof, are located, and the County that at the applicable time has jurisdiction over the Properties or applicable portion thereof.

(v) "Declarant" is defined as SM Raleigh, LLC, a North Carolina limited liability company, and its successors and assigns. The term "Declarant" also includes: (i) any Person to whom or which Declarant or any subsequent holder of Declarant rights and/or obligations assigns or delegates any or all of the rights and/or obligations of Declarant under this Declaration by an assignment of Declarant's rights recorded in the Registry; (ii) any Person to whom any rights and/or obligations of Declarant are assigned or assumed or on whom any rights and/or obligations are conferred in accordance with Legal Requirements; and (iii) any Person designated by Declarant as its "affiliate".

(w) "Declarant Control Period" is defined as the period of time commencing on the date of recording of this Declaration in the Registry and ending on the earlier of the date on which the first of the following occurs:

i. the date on which the Declarant does not own a Lot or a Proposed Lot; provided, however, until such time as the Declarant Control Period ends under any other subparagraph of this definition without the possibility of any reinstatement, the Declarant Control Period shall be reinstated automatically as the Subdivision Plan is revised such that the Declarant is the owner of one or more Lots or Proposed Lots.

ii. voluntary termination of the Declarant Control Period by a written instrument executed by Declarant and recorded in the Registry.

iii. termination of the Declarant Control Period as required by any Legal Requirement.

iv. 5:00 p.m. local time on December 31, 2042.

Declarant has the sole authority to resolve any issues or disputes regarding the date on which the Declarant Control Period ends or the date and/or circumstances under which the Declarant Control Period is reinstated. The Declarant Control Period is used in determining those periods of time during which the Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Board of Directors of the Association, all as more particularly described in the Bylaws of the Association.

(x) "Declaration" is defined as this Declaration of Covenants, Conditions and Restrictions for Retreat at Renaissance, together with all valid amendments, supplements, and annexations hereto recorded in the Registry. The Declaration is referred to herein as "the Declaration" and "this Declaration".

(y) "Developer" is defined as SM Raleigh, LLC, a North Carolina limited liability company.

(z) "Development Period" is defined as the period of time commencing on the date of the recording of this Declaration in the Registry and ending at 11:59 P.M. local time on the date on which the last of the following occurs:

v. the last day on which Declarant owns any Lot or Proposed Lot.

vi. the last day on which Declarant has the unilateral right to subject Additional Property to this Declaration.

vii. the date that is five (5) years after the date of recording of the most recent Annexation Declaration subjecting Additional Property to the Declaration.

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

ix. the date on which a certificate of occupancy is issued for initial construction of a dwelling on the last Lot in the Properties remaining after certificates of occupancy have been issued for dwellings on all other Lots in the Properties and such Lot is owned by a Person other than the Declarant or a Builder.

Notwithstanding the foregoing, if Declarant is delayed in the development of any part or all of the Properties as a result of a sanitary sewer, water or building permit moratorium, or as the result of some other cause or event beyond Declarant's control, then the foregoing applicable time period shall be extended by the amount of time of the delay. Provided, however, Declarant may terminate the Development Period at any time by recording a termination document in the Registry. Except in the case of voluntary termination by the Declarant, the Development Period also shall include any periods of time after the applicable termination event during which Declarant is conducting any activity within the Property that is required by Legal Requirements or for Declarant to fulfill any obligation to a governmental entity, the Association, any Builder, or any Owner. In the event of an assignment of Declarant rights, with respect to the rights assigned the Development Period shall remain in full force and effect through the applicable periods of time as they relate

to the assignee rather than the original Declarant hereunder. Declarant has the sole authority to resolve any issues or disputes regarding the date on which the Development Period ends.

(aa) "Dwelling" or "Dwelling Unit" or "Townhouse" is defined as any building or portion of a building on a Lot which is used or occupied, or intended for use or occupancy, as a residence, whether by the Owner thereof or by tenants or sub-tenants of the Owner. At the time of the recording of this Declaration in the Registry, it is contemplated that each Townhouse will be physically located on a Lot and that each Townhouse will share at least one common party wall with another Townhouse; provided, however, the foregoing shall not prohibit a building that contains only one (1) Townhouse.

(bb) "Fiscal year" is defined as the calendar year, until such time as the Board establishes a different fiscal year for the Association. Provided however, the first fiscal year of the Association shall commence on the date of the recording of this Declaration in the Registry.

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

(dd) "Governing Documents" is defined as and includes all of the following, as the same may be amended, restated, or supplemented from time to time: agreements with Governmental Authorities, the Notice of Brownfields Property; the Brownfields Agreement; this Declaration; the Articles and Bylaws of the Association; Architectural Guidelines; Restrictions and Rules; resolutions adopted by the Board; Board policies, conditions of approval for development of any part or all of the Properties required by the Architectural Review Committee; Annexation Declarations; plats (or maps, those terms being used interchangeably herein) of the Properties or any portions thereof approved by a Governmental Authority and recorded in the Registry; other declarations of restrictive or protective covenants applicable to the Properties or any portion thereof; documents withdrawing portions of the Properties from this Declaration; all duly adopted (and, if required by Legal Requirements, approved by the applicable Governmental Authority) amendments, modifications, revisions, and supplements to any of the foregoing documents or plats, and all documents applicable to the Properties that are included in the term "Governing Documents". Approvals granted by the Declarant under the Governing Documents shall be binding upon all successors to Declarant's approval authority.

(ee) "Governmental Authority" or "Governmental Authorities" or "Governmental Entity" or "Governmental Entities" is defined as the County, any applicable City, the State of North Carolina, the United States of America, and all other governmental entities and quasi-governmental entities that have jurisdiction over the Properties or any part thereof, and all applicable departments, divisions, sections, branches, agencies, and other subdivisions of such Governmental Authorities, whichever governmental entity or entities is/are applicable.

(ff) "Improvement" is defined as any improvement of or on any Lot or other applicable portion of the Property, including any or all of the following: Dwellings and other buildings and structures (specifically including exterior materials, colors, size, location and architectural style); decks; patios; car port; porches; driveways; playhouse; motor vehicle and other parking areas; exterior storage areas; exterior recreational areas, equipment and facilities; mailboxes; exterior antennae, dishes and other apparatus to receive or transmit radio, television, or microwave or other signals; fences; exterior walls; hedges; other landscaping (including planted areas, grassed areas, natural areas and the plant and other materials therein); poles; flags; exterior decorative features and items; ponds; lakes; staking, clearing,

grading, filling, change in grade or slope, and other site preparation; swimming pools; coverings for windows and other glass portions of a Dwelling or other building or structure (for example, curtains, blinds, and shutters), which coverings are visible from anywhere off of the Lot or other applicable portion of the Property; exterior lights and signs; lights and signs visible inside a Dwelling or other building or structure from anywhere off of the Lot or other applicable portion of the Property; and all other items used or maintained on a Lot or other applicable portion of the Property outside of a Dwelling or building or other structure located thereon or on the exterior surfaces of a Dwelling or other building or structure on the Lot or other applicable portion of the Property. The definition of improvements includes both initial improvements and all subsequent alterations, changes and additions to same. The term "initial improvements" is defined as all of' the improvements constructed or placed or located on a Lot or other applicable portion of the Property, or approved for construction, placement, or location on a Lot or other applicable portion of the Property, in accordance with either Approved Plans or Architectural Guidelines not requiring Approved Plans. The examples of improvements stated for the purposes of this definition are not inclusive of all types of improvements and do not imply that all improvements listed as examples will be allowed in the Properties, and all improvements are subject to the architectural approval provisions of the Declaration. For the purposes of this definition, the word "exterior" means located on a Lot or other applicable portion of the Property outside of the Dwelling or other building or structure thereon, as well as attached to the outside of (such as on a wall or roof) a Dwelling, building, or other structure on a Lot or other applicable portion of the Property.

(gg) "Include" or "including" is defined as inclusive of, but not limited to, the particular matter described, unless otherwise clearly obvious from the context.

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

(ii) "Legal Requirement" is defined as and includes any duly adopted and applicable law, ordinance, regulation, building code, or requirement of any governmental entity or quasi-governmental entity or agency having jurisdiction over the Property or any portion thereof, including any branch, department or division of any of the foregoing governmental entities and quasi-governmental entities.

(jj) "Limited Common Elements" is defined as Common Elements that are owned or leased by the Association for the exclusive, primary, or common use and enjoyment of one or more, but less than all, of the Lots. At any time during the Development Period portions of the Property shown as Common Elements on any plats of the Property recorded in the Registry may be designated by the Declarant as Limited Common Elements.

(kk) "Limited Common Expenses" is defined as all expenses of the type included within the term Common Expenses, but that are related solely and specifically to Limited Common Elements. Limited Common Expenses shall be paid out of assessments against Members who own Lots in the particular phase or section or portion of the Properties for or in which the associated Limited Common Elements have been established. All references in the Governing Documents to Common Expenses in the context of Limited Common Elements are deemed to refer to Limited Common Expenses for the applicable Limited Common Elements.

(ll) "Lot" (or "Unit") is defined as any portion of the Properties, whether improved or unimproved, that has delineated boundary lines as shown on a Plat recorded in the Registry and that either has a Dwelling constructed or partially constructed thereon or is intended for construction of a Dwelling thereon. Declarant has the authority to determine whether any real property is a Lot under this Declaration.

(mm) "Maintain", "maintenance", "maintaining", or any similar term used herein is defined as and includes any one or more of the following, as the context requires or allows: acquisition, purchase, construction, re-construction, installation, maintenance, inspection, examination, upkeep, cleaning, renewal, alteration, repair, replacement, repainting, remodeling, restoration, removal, improvement, administration, operation, use, planting, mowing, cutting, trimming, pruning, fertilizing, watering, and preservation.

(nn) "Member" is defined as a Person who holds membership in the Association as provided herein.

(oo) "Mortgage" or "deed of trust" is defined as and includes any mortgage, deed of trust, and any and all similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

(pp) "Mortgagee" is defined as the beneficiary or payee under any mortgage or deed of trust, and the terms "mortgage" and "deed of trust" are deemed to refer to both mortgages and deeds of trust.

(qq) "Nonprofit Corporation Act" is defined as the "North Carolina Nonprofit Corporation Act", currently contained in Chapter 55A of the North Carolina General Statutes, and including all amendments, supplements and replacements thereof.

(rr) "Notice of Brownfields Property" is defined as that certain Notice of Brownfields Property recorded in the Registry at Book 16930, Page 1958, as may be amended from time to time.

(ss) "Owner" is defined as the record owner, whether one or more Persons, of a fee simple interest (or undivided fee simple interest) in any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

(tt) "Person" is defined as a natural person, corporation, trust, limited liability company, partnership or any other legal entity.

(uu) "Plans" is defined as the complete plans and specifications for a proposed improvement showing (where applicable) the size, shape, dimensions, materials, exterior finishes and colors, location on the applicable portion of the Properties, driveway, parking areas, provisions for handling stormwater, landscaping, floor plans and elevations, and other items, all as specified from time to time in any Governing Documents or as required by the Architectural Review Committee. "Approved Plans" is defined as Plans that have been approved by the Declarant or by the Architectural Review Committee (or by the Board, on appeal from the Architectural Review Committee), as applicable.

(vv) "Plat" is defined as any plat recorded in the Registry, as may be amended from time to time, illustrating any portion of the Properties, whether improved or unimproved, that has delineated boundary lines.

(ww) "Present" at a meeting of the Association is defined as being present in person or by a proxy that has been executed and is effective under Legal Requirements and the Governing Documents.

(xx) "Property" or "Properties" is defined as all real property subject to this Declaration. The Property initially subject to this Declaration is described in **Exhibit A**. "Proposed Property" or "Proposed Properties" is defined as all real property included in the Subdivision Plan that is not part of the Properties.

(yy) "Property manager" or "management company" is defined as a Person employed by the Association to manage or assist in the management of the business and property of the Association.

(zz) "Proposed Lot" (or "Proposed Unit") is defined as any real property included in the Subdivision Plan, whether improved or unimproved, that has delineated boundary lines as shown on the Subdivision Plan or on a Plat recorded in the Registry and either has a Dwelling constructed or partially constructed thereon or is intended for construction of a Dwelling thereon. A Proposed Lot becomes a Lot from and after the later of the dates (if not the same date) on which it becomes a part of the Properties and a Plat thereof is recorded in the Registry. Declarant has the authority to determine whether any real property is a Lot under this Declaration.

(aaa) "Registry" is defined as the office of the Register of Deeds (or any successor office under Legal Requirements) for the North Carolina County or Counties in which this Declaration, deeds, Plats, easements, and mortgages for any part of the Properties are recorded. All references herein to recording or to any requirement to record a document or Plat refer to recording in the applicable Registry.

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

In addition to any other provisions of the Declaration authorizing the Association to adopt rules and regulations, the Declarant (during the Development Period) and the Association, separate and apart from the Restrictions and Rules, may adopt, amend, modify, and enforce reasonable rules and regulations for the use and operation of the Common Elements and/or for the implementation and enforcement of the Governing Documents.

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

(ddd) "Stormwater Agreement" is defined as any agreement required by Legal Requirements with respect to the Stormwater Control Facilities and any other agreement entered into by Declarant, on behalf of the Association, or by the Association, with respect to Stormwater Control Facilities.

(eee) "Stormwater Control Facilities" or "Stormwater Control Measures" is defined as any one or more of the following that serves or benefits any part or all of the Properties or is required by Stormwater Agreement in connection with any part or all of the Properties, whether located in the Properties or outside of the Properties, and which are not the maintenance responsibility of a governmental entity or other Person: (i) "stormwater drainage easements" (also referred to herein as "stormwater easements" or "drainage easements") that are shown on plats of the Properties recorded in the Registry or established by written instruments recorded in the Registry (including but not limited to the Stormwater Agreement), and which either are located on the Common Elements or benefit or serve more than one (1) Lot; (ii) all "stormwater management facilities" for the Properties, including ponds, man-made or natural areas and/or planted or landscaped areas into which stormwater drains, or in which stormwater is collected, or from which it is discharged, as well as drains, pipes, conduits, inlets, creeks, streams, channels, dams, ditches, filters, buffers, bio-retention areas, level spreaders, constructed wetlands, and other equipment, facilities and stormwater management measures used for inspecting, monitoring, measuring, testing, collecting, controlling, transporting, conveying, handling, storing, discharging and/or managing Stormwater, and (iii) any stormwater or drainage easement benefiting the Properties. Except as otherwise provided herein, maintenance of Stormwater Control Facilities is a Common Expense or Limited Common Expense, as applicable. References in the Declaration to stormwater management include all applicable Stormwater Control Facilities, Stormwater Agreements and Stormwater Maintenance Manuals.

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

(ggg) "Street" or "street right of way" is defined as any public or private street, alley, or drive shown on a Plat of any part of the Properties, but excluding a driveway on a Lot that is specific to that Lot and provides access from said Lot to and from a street. A Street consists of the entire area or right of way established therefor, whether improved or unimproved.

(hhh) "Subdivision" is defined as the Properties, together with any other real property included in the Subdivision Plan.

(iii) "Subdivision Plan" is defined as the most current preliminary or final land use or development plan, by whatever name known (for example, subdivision plan, site plan, cluster plan, master plan) approved by the City for the real property known as "Retreat at Renaissance" or "The Retreat at Renaissance" or other name by which it is or may be known. Declarant reserves the right, in its sole discretion, but subject to Legal Requirements and the Governing Documents, to amend or modify any Subdivision Plan in whole or in part, including the addition or deletion of real property and including the reconfiguration of real property. The fact that the Properties is included in the Subdivision Plan does not obligate Declarant to develop it or subject it to the Declaration, nor does it prohibit Declarant from withdrawing it from the Declaration, nor shall Declarant be prohibited from subjecting to the Declaration any real property that is not included in the Subdivision Plan.

(jjj) "Utility" or "public utility" is defined as any one or more of the following used in any part or all of the Properties: electricity; telephone; Internet service; water; sanitary sewer; natural gas; television; refuse collection; collection of materials for recycling; and any other service or facility generally recognized as a public utility or determined to be a public utility by the Declarant (during the Development Period, and thereafter, by the Board). "Utility provider" or "public utility provider" is defined as the Person who provides a utility to any part or all of the Properties.

ARTICLE II
THE PROPERTIES; ANNEXATION; WITHDRAWAL

Section 2.01 The Properties. The real property which initially is and shall be owned, held, transferred, sold, conveyed, leased, used, occupied and mortgaged subject to the Declaration, and which is within the jurisdiction of the Association, is described on **Exhibit A** attached hereto, and constitutes the Properties at the time of the recording of the Declaration. The Properties constitute a "planned community" as defined in the Act and are subject to all of the terms and provisions of the Act.

Section 2.02 Annexation of Additional Property. All annexations of Additional Property to the Declaration are subject to Legal Requirements and, if required by the Code, must be approved by the Town.

Section 2.03 Annexation by the Declarant. Prior to the end of the Development Period, Declarant may annex Additional Property to the Declaration by recording an Annexation Declaration extending the operation and effect of the Declaration thereto. If the Additional Property being annexed is not owned by Declarant, the Annexation Declaration also must be executed by all Owners of the Additional Property. Nothing herein shall be deemed to require the Declarant to annex any Additional Property to the Declaration or to develop it in any manner whatsoever.

Section 2.04 Other Annexation. If the Declarant desires to annex Additional Property to the Declaration other than as allowed in the immediately preceding subsection, or if a Person other than the Declarant desires at any time to annex Additional Property to the Declaration, such Additional Property may be annexed to the Declaration only by the affirmative vote of sixty-seven percent (67%) or more of the votes cast by the Members present at a meeting of the Association for which the notice of the meeting includes notice of the proposal to annex such Additional Property, and the recording in the Registry of an Annexation Declaration signed by the owner of such Additional Property and by the appropriate officers of the Association certifying the required meeting and vote. In addition to the foregoing, at any time during the Development Period that a Person other than Declarant desires to annex Additional Property to the Declaration, to be effective such annexation must have the written consent of Declarant, as evidenced by Declarant's execution of the Annexation Declaration or another document specifically consenting to the annexation.

Section 2.05 Annexation Declaration. Each Annexation Declaration shall be effective to annex (or subject, those two words being used interchangeably in the context of adding Additional Property to the Declaration) Additional Property to the Declaration only upon obtaining all approvals required by the Declaration and upon its recording in the Registry, and the effective date of such annexation shall be the later of the date specified therein, if any, or the date of recording. Each Annexation Declaration shall describe the Additional Property annexed and indicate that the Additional Property is being annexed to the Declaration. An Annexation Declaration need not be in any specific form and need not be titled Annexation Declaration (for example, the annexation language may be contained in a deed from the Declarant conveying the Additional Property being annexed), but it shall indicate clearly the intention to annex such Additional Property to the Declaration. Any Annexation Declaration may specify such use restrictions and may contain such other terms, covenants, restrictions, easements, affirmative obligations, assessments, charges and liens applicable to such Additional Property as the Person annexing such Additional Property to the Declaration may determine. Provided, however, the Declaration shall control over any provision of any Annexation Declaration that conflicts with the Declaration.

Section 2.06 Votes Allocated to Additional Property. Except as otherwise provided herein or in any Annexation Declaration annexing Additional Property to the Declaration, votes in the Association and obligations for payment of assessments shall be allocated to Additional Property subjected to the Declaration and the Owners thereof in the same manner that votes and assessment obligations are allocated to the existing Properties and Owners thereof prior to the annexation of the Additional Property.

Section 2.07 Conveyance of Common Elements. Common Elements, if any, located within any Additional Property or the applicable phase or portion thereof, shall be conveyed to the Association pursuant to the requirements of the Declaration for conveyance of other Common Elements to the Association.

Section 2.08 Withdrawal of Properties from the Declaration. All withdrawals of portions of the Properties from the Declaration are subject to Legal Requirements and, if required by the Code, must be approved by the Town.

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

After the end of the Development Period, one or more portions of the Properties may be withdrawn from the Declaration upon approval by the Owner of such portion of the Properties and by the affirmative vote of sixty-seven percent (67%) or more of the votes cast by the Members present at a meeting of the Association for which the notice of the meeting includes notice of the proposal to withdraw such portion of the Properties from the Declaration. Provided, however, the required percentage vote of the Members for withdrawal of any Lot on which there is a Dwelling at the time of the proposed withdrawal is eighty percent (80%) or more.

Following approval of any such withdrawal, the Association and the Owner of the portion of the Properties to be withdrawn from the Declaration shall record a withdrawal declaration particularly describing the withdrawn portions of the Properties by reference to a plat recorded in the Registry or by a metes and bounds description. The withdrawal shall be effective on the date the withdrawal declaration is recorded in the Registry, or on such later date specified therein.

Section 2.09 Effect of Annexation or Withdrawal. Other than as specifically limited by the Governing Documents or any Legal Requirement, the Declarant shall have full power to add to, subtract from, or make changes in, any Subdivision Plan, and annex real property to and withdraw real property from the Declaration, regardless of the fact that such actions may affect the relative voting strength of any class of membership in the Association or reduce the number of Owners subject to assessment under the Declaration. Any portion of the Properties that is withdrawn from the Declaration may be owned, held, transferred, sold, conveyed, leased, used, occupied, mortgaged and developed in any manner allowed under Legal Requirements, and shall be released from the terms and provisions of the Declaration on the date the withdrawal becomes effective as provided herein, subject to any terms of the withdrawal declaration and except that all easements specifically affecting such withdrawn portions of the Properties, as shown on plats recorded in the Registry or as described in documents recorded in the Registry, shall remain in force and effect unless released or terminated by all Persons having rights to exercise such easements.

Section 2.10 Declarant's Right to Record Subdivision Declarations and Supplemental Declarations. Notwithstanding anything to the contrary herein, during the Development Period the Declarant has the right to record one or more declarations with respect to any portion of the Properties or Additional Property owned by Declarant that contain use restrictions and/ or such other terms, covenants, restrictions, easements, affirmative obligations, assessments, charges and liens, not in conflict with the Declaration, as the Declarant determines. Such declarations may be referred to as "Supplemental Declarations", "Subdivision Declarations", or by any other name selected by Declarant.

ARTICLE III
ASSOCIATION

Section 3.01 Board Acts for Association. All obligations required or allowed to be performed by the Association shall be performed in accordance with Legal Requirements and applicable provisions of the Governing Documents. Unless reserved by or for the Declarant in the Declaration, other Governing Documents or Legal Requirements, or unless otherwise required by Legal Requirements, all rights, powers, easements, functions, services, obligations and duties of the Association may be performed, exercised, directed, or contracted for by the Board on behalf of the Association. There is no distinction intended in the Declaration between items that may be adopted, enforced, acted upon, or waived by the Board and items that may be adopted, enforced, acted upon, or waived by the Association, except where a vote of the Members of the Association is required therefor. The officers of the Association may act on behalf of the Association as authorized in the Governing Documents or by Legal Requirements and/or as directed by the Board.

Section 3.02 Powers and Obligations. Subject to Legal Requirements, the Association shall have all of the powers described in the Governing Documents, in the Act, and in the Nonprofit Corporation Act, specifically including all of the powers of owners' associations described in Section 47F-3-102 of the Act, and, whether or not described in Section 47F3-102 of the Act or in this Declaration, shall have all powers necessary to enable the Association to conduct its business, carry out its functions, and satisfy its obligations.

The Association shall accept transfer of ownership from Declarant of any and all Common Elements, including transfer or assignment of any and all associated rights, easements, and obligations.

The Association shall accept from Declarant any and all assignments of Declarant rights and obligations under any part or all of the Declaration, the City Ordinance, any Stormwater Agreement, any easement benefitting any part or all of the Properties, any encroachment agreement or other agreement with the Town, a utility provider, or any other Person, specifically including assumption of all Declarant or Association obligations which are contained in such documents and relate to the Properties, the Common Elements, architectural approvals, or other functions or services performed or provided by the Association.

The Association shall accept from Declarant any and all appointments of the Association as the agent of Declarant for administration and enforcement of any part or all of the Declaration, specifically including all rights and obligations related to the Properties, the Common Elements, architectural approvals, or other functions or services performed or provided by the Association.

Section 3.03 Functions and Services. In accordance with the requirements of the Governing Documents, and the Act and other Legal Requirements, the Association shall or may, as indicated, do, provide, provide for, perform, accept, or be responsible for the following, the expenses for which are Common Expenses:

(a) The Association shall conduct its business, perform its services, and satisfy its obligations in accordance with Legal Requirements and the Governing Documents, including legal, financial, accounting and communications services, and shall provide or procure the administrative or other services necessary in connection therewith.

(b) The Association shall maintain the Common Elements, giving due consideration to the Community Wide Standard and to the level of maintenance, if any, that may be performed by the Town or other Person.

(c) The Association shall pay, or provide for payment of, all of the Common Expenses, whether or not any particular Common Expense is referred to specifically in this Declaration.

(d) The Association shall maintain all private streets and private alleys in the Properties, except for driveways and walkways that are the maintenance responsibility of Owners as described herein. (Note: private streets typically will be identified as private on recorded Plats of the Properties).

(e) As described herein, the Association shall provide exterior maintenance for each Lot on which there is a Dwelling for which a certificate of occupancy has been issued and for each Dwelling for which a certificate of occupancy has been issued, except for Lots and Dwellings owned by Builders. Provided, however, maintenance of Lots and Dwellings by the Association contemplated by this Section is routine maintenance and long term capital maintenance (for example, replacement of roof materials that over time have become unsuitable for their intended purpose) and is not repair or replacement of improvements damaged or destroyed by acts of Force Majeure. The determination of the need, quality, extent and cost of such maintenance, including whether or not to replace any diseased or dead vegetative materials (grass, trees, shrubs, plants, flowers, etc.), shall be made by the Board in a reasonable, non-arbitrary manner, and giving due consideration to any proceeds of insurance available to pay for such maintenance or that might have been available if an Owner had in effect the insurance required to be carried by an Owner under this Declaration. Additionally, the Board has the authority to resolve all issues as to whether the Association or an Owner is responsible for maintenance of any portion of a Dwelling or other improvement on a Lot. The exterior maintenance responsibility of the Association shall include the following:

i. With respect to Dwellings, the Association shall maintain roof coverings, gutters, downspouts, and siding. The following shall be maintained by the applicable Owner unless otherwise provided in this paragraph: doors (including Townhouse entry doors, garage doors, storm doors, screen doors and storage area doors) and their appurtenant hardware (including door bells, knockers and locks), door frames and sills; windows, window frames and window screens; foundations; rooftop terrace, if any; any HVAC unit(s); exterior light fixtures and bulbs; hose bibs; fencing installed on a Lot after the applicable Owner's closing of such Lot; and all glass panes, screens, and awnings. Provided, however, the Association shall be responsible for repainting (or re-staining, if applicable) the exterior surfaces of doors (including Townhouse entry doors, garage doors, and storage area doors) as part of any repainting (or re-staining, if applicable) of other exterior surfaces of the Dwellings.

(f) With respect to Lots, the Association shall maintain mailboxes and all "Yard Materials" (that is, grass, trees, plants, shrubs, flowers, fences installed at a closing of a Lot and other landscaping, except Yard Materials that are fenced) installed by the Declarant, or by the Association, or by the Builder who constructs the initial improvements on the Lot, or by the Owner of the Lot with the prior written consent of the Association and with respect to which the Association has agreed to assume the maintenance obligation. Maintenance of Yard Materials shall include mowing, edging, and blowing of grass, trimming or pruning of trees and shrubs, application of fertilizers, weed control products, and insect control products, and twice annually application of pine straw, mulch, or other similar materials in appropriate places. Maintenance of driveways and walkways on a Lot that are not part of the Common Elements or subject to an easement for the common use of all Lot Owners shall be the responsibility of the Owner of the Lot on which the driveway or walkway is located. Further provided, and as exceptions to the Association's maintenance responsibility for such matters, the Association shall not be responsible for maintenance of the following:

i. On any Lot on which the Owner of the Lot is allowed to install trees, plants, shrubs, flowers, or other vegetative materials (and nothing in this subsection shall be construed as requiring the Architectural Review Committee or the Board to allow an Owner to install such items), the Owner of such Lot shall be responsible for maintenance of all such trees, plants, shrubs, flowers, or other vegetative materials, unless the Association has agreed to assume maintenance responsibility therefor. The Owner's maintenance responsibility with respect to the foregoing items shall be in accordance with the Community Wide Standard, and the Association shall have the right, but not the obligation, to maintain such trees, plants, shrubs, flowers, and other landscaping in the event that the applicable Owner does not maintain them in accordance with the Community Wide Standard, as determined in the reasonable judgment of the Board.

(g) All such maintenance by the Association shall be at the expense of the applicable Owner, and with respect to the collection of any such maintenance expenses spent or incurred by the Association, the Association shall have against the applicable Owner and such Owner's Lot all of the rights and remedies that the Association has under the Declaration for collection of assessments, including the filing of liens for unpaid assessments and the recovery of the costs of collection, including reasonable attorney fees.

(h) The Association shall maintain that portion of any private sanitary sewer line and related facilities (but excluding meters that measure usage) that is used or is for use by more than one Dwelling and that is not maintained by a governmental entity, and the Owner of each Lot shall be responsible for all maintenance of private sanitary sewer lines and facilities on such Owner's Lot that are for the exclusive use of the Dwelling on that Lot. For these purposes, a "private sanitary sewer line" is one that is located outside of a public street right-of-way or public utility easement.

(i) The Association shall maintain that portion of any private water line and related facilities (but excluding meters that measure usage) that is used or for use by more than one Dwelling and that is not maintained by a governmental entity, and the Owner of each Lot shall be responsible for all maintenance of private water lines and facilities on such Owner's Lot that are for the exclusive use of the Dwelling on that Lot. For these purposes, a "private water line" is one that provides potable water and is located outside of a public street right-of-way or public utility easement. The Association's exterior maintenance responsibility shall not include the maintaining or cleaning of porches, patios, entry steps (front and rear), walkways, stoops or driveways on the Lots, all of which shall be the responsibility of the applicable Lot Owner. Provided, however, the Association may provide for cleaning of driveways and walkways on one or more Lots, as determined from time to time by the Board.

(j) The Association shall operate the Architectural Review Committee as provided herein.

(k) The Association shall keep records of all its acts and corporate business, including sufficiently detailed financial records.

(l) The Association shall provide an annual financial report to each Member in accordance with Section 47F-3-118 of the Act and, upon either the (i) the affirmative vote of majority of the votes cast by the Members present at a meeting of the Association, or (ii) the written request of the Members possessing more than fifty percent (50%) of the total number of votes of all the Members of the Association, shall have such report audited (at the expense of the Association) by an independent certified public accountant, which audited report shall be made available to each Member making written request therefor.

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

(n) The Association shall establish budgets, shall establish the amount of and collect assessments, and shall establish reserve funds.

(o) The Association shall hold meetings and give proper notice thereof.

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

(q) To the extent, if any, that a governmental entity is not obligated to do so, the Association shall be responsible for stormwater management and maintenance of Stormwater Control Measures as provided in the Stormwater Agreement.

(r) The Association shall be responsible for all financial and other obligations of the Association pursuant to any encroachment agreement or other agreement with the Town, or agreement between the Association and any utility provider or other Person.

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

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

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

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

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

(x) The Association may borrow funds to pay the obligations of the Association, which borrowing may be secured by assignment or pledge of Association rights to receive and collect assessments or by liens on Common Elements or other Association assets.

(y) The Association may maintain one or more bank accounts.

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

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

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

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

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

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

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

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

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

(ii) The Association shall obtain and maintain insurance and fidelity bonds in accordance with Legal Requirements and the Governing Documents, and in addition to insurance required by Legal Requirements and/or the Governing Documents, the Association may obtain and maintain such other insurance coverage as the Board determines to be in the best interests of the Association, and may adjust the amount, collect, and use the proceeds of such insurance as the Board determines.

Section 3.04 Stormwater Management. The Association shall maintain the Stormwater Control Measures and the cost thereof attributable to the Properties shall be Common Expenses. The Association is obligated to maintain such Stormwater Control Measures subject to all the terms and provisions of the Stormwater Agreement and the City Ordinance.

Section 3.05 Dedication, Conveyance or Exchange of Common Elements. The Association, (i) upon obtaining the affirmative vote of those Members of the Association having the minimum required voting percentage under applicable provisions of the Act for conveyance of Common Elements (or if no percentage is specified in the Act, upon obtaining the affirmative vote of those Members having sixty-seven percent (67%) or more of the total number of votes in the Association), and (ii) prior to the end of the Development Period, upon obtaining the written consent of Declarant, may dedicate portions of the Common Elements to public use and/or convey or exchange portions of the Common Elements

with the Declarant or any other Person, for any purpose approved by such Members, including any one or more of the following purposes: (a) to eliminate unintentional encroachments of improvements or easements; (b) to correct any building or other setback violations; (c) to adjust boundary lines of portions of the Properties; (d) to facilitate the orderly subdivision and development of the Properties; or (e) to conform the configuration of the Properties to any applicable Subdivision Plan. All conveyances and exchanges of Common Elements are subject to the following: (s) no such conveyance or exchange (either alone, or in conjunction with other conveyances or exchanges) shall result in a reduction of the portion of the Common Elements that constitutes "open space" below the minimum amount of "open space", if any, required by Legal Requirements; (t) if required by Legal Requirements, the Town must approve any exchange or boundary line adjustment; (u) any boundary line adjustment must be approved by the Owners of all portions of the Properties affected by the adjustment; (v) properties received by the Association in an exchange must be of like value and utility to the Common Elements of the Association that was part of the exchange transaction; (w) each Lot contiguous to Common Elements prior to the conveyance shall remain contiguous to Common Elements after the conveyance, unless otherwise approved by the Owner of the Lot that no longer will be contiguous; (x) the conveyance shall not materially conflict with any applicable Subdivision Plan; (y) no conveyance of Common Elements shall deprive any Lot of its rights of access and support; and (z) any conveyance of real property to the Association must be free and clear of all encumbrances except for the Declaration and any applicable Supplemental Declaration, the City Ordinance, Stormwater Agreements and other agreements executed as allowed by the Declaration, Legal Requirements, street rights of way or access easements, greenway easements, easements for utilities, and stormwater drainage easements.

All real property acquired by the Association is part of the Common Elements and, without further act of the Association or its Members, is released from all provisions of the Declaration (and any applicable Supplemental Declaration) except those applicable to the Common Elements, but it remains subject to all easements and other matters affecting it at the time it becomes Common Elements. Any Common Elements dedicated to public use, conveyed or exchanged by the Association, without further act of the Association or its Members ceases to be Common Elements and shall be subject to those provisions of the Declaration (and any applicable Supplemental Declaration) that would have been applicable to such real property had it not been Common Elements. Provided, however, if the vote of the Members approving the dedication, conveyance, or exchange so provides, or if required by the Town or a utility provider who receives Common Elements from the Association by dedication, conveyance, or exchange, such Common Elements shall be released from all provisions of this Declaration and any applicable Supplemental Declaration upon the recording of the document or plat that effects such dedication, conveyance, or exchange.

Section 3.06 Mortgage and Pledge of Common Elements. The Association, (i) upon complying with the minimum required voting percentage under applicable provisions of the Act for conveyance or dedication of Common Elements (or if no percentage is specified in the Act, upon obtaining the affirmative vote of sixty-seven percent (67%) or more of the total number of votes in the Association), and (ii) prior to the end of the Development Period upon obtaining the written consent of Declarant, shall have the power and authority to mortgage the Common Elements and to pledge its assets as security for loans made to the Association, which loans shall be used by the Association in performing its functions and providing services under the Declaration. Declarant may, but shall not be required to, make loans to the Association, subject to the foregoing and further subject to approval by the Declarant of the use of such loan proceeds and the terms pursuant to which such loans will be repaid. Notwithstanding anything in the Declaration to the contrary, at any time that there is any unpaid amount owed to Declarant under any loan made by it to the Association, without Declarant's written consent the annual assessments shall not be reduced below the amounts in effect at the time such loan first was made.

Section 3.07 Liability Limitations. Except as required by Legal Requirements or the Declaration, or agreed to by any of the following Persons otherwise excluded from liability by the provisions of this sentence, neither Declarant, nor any Builder, nor any current or former Member of the Association, nor the Board, nor any director on the Board, nor any officer of the Association, nor any member of the Architectural Review Committee or any other committee appointed by the Board, nor any shareholder, director, officer, partner, member, manager, agent or employee of any of the foregoing, shall be personally liable for debts contracted or incurred by the Association or for a tort of another current or former Member, whether or not such other current or former Member was acting on behalf of the Association, unless such Person

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

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

The Association shall indemnify directors, officers, and committee members as provided by Legal Requirements or in the Governing Documents.

Section 3.08 Merger or Consolidation. Upon a merger or consolidation of the Association with another association in accordance with all Legal Requirements, the properties, rights and obligations of the Association, by operation of law, may be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association, by operation of law, may be added to the properties, rights and obligations of the Association as the surviving association pursuant to a merger or consolidation. The surviving or consolidated association shall be considered the Association under the Declaration and may administer the terms and provisions of the Declaration and any applicable Supplemental Declaration or Subdivision Declaration, together with the terms and provisions of any declarations, covenants and restrictions applicable to other property under the jurisdiction of the surviving or consolidated Association, as a common plan. Other than as specifically stated in the plan of merger or consolidation approved pursuant to all Legal Requirements, no merger or consolidation shall effect any revocation of the provisions of the Declaration with respect to the Properties, including the limits on any assessment or any other matter substantially affecting the interests of the members of the Association. In addition to obtaining the minimum required voting percentage under applicable provisions of Legal Requirements for merger or consolidation with another association, during the Development Period such merger or consolidation must have the written consent of Declarant.

ARTICLE IV
RIGHTS IN AND TO COMMON ELEMENTS

Section 4.01 Owners' Easements of Enjoyment and Access. Except as limited by the provisions of this Section, or by other provisions of the Governing Documents, every Owner shall have a non-exclusive right and easement of enjoyment in, use of and access to, from, and over the Common Elements, which right and easement shall be appurtenant to and shall pass with title to every Lot, subject to the following:

(a) restrictions, easements, and other matters applicable to any Common Elements existing at the time of the conveyance to the Association.

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

(c) the right of the Association to regulate or limit use and access by Owners to Common Elements to only such use or access as is reasonably necessary to the full use and enjoyment of the portion of the Properties owned by such Owner.

(d) limitation of use of Limited Common Elements to those Lots and Owners to whom such Limited Common Elements is allocated.

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

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

(g) the right of the Declarant, during the Development Period, and the right of the Association, to grant easements, leases, licenses, and concessions over, across, in, on, under, and through the Common Elements.

(h) the right of the Association to borrow money and, subject to the applicable voting requirements for such actions, to mortgage, pledge, encumber by deed in trust, or hypothecate any or all of the Common Elements or its other assets as security for such indebtedness. Provided, however, that the rights of any such lender or Mortgagee shall be

subordinate to the property rights of the Members and the Association provided for in the Declaration and Legal Requirements.

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

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

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

(l) the Special Declarant Rights and any other rights of the Declarant.

Section 4.02 Delegation of Use.

Family. Subject to all provisions of the Governing Documents for use of the Common Elements applicable to Owners, members of the Owner's family unit who occupy the Dwelling of the Owner within the Properties as their principal residence may use the Common Elements in the same manner and to the same extent as the Owner.

Tenants. Subject to all provisions of the Governing Documents applicable to Owners and tenants, tenants to whom an Owner has delegated the Owner's right to use the Common Elements may use the Common Elements in the same manner and to the same extent as the Owner. Each Owner shall notify the Association of any tenant to whom the Owner has delegated such Owner's rights to use the Common Elements.

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

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

Section 4.03 Conveyance of Title to the Association. Declarant covenants, for itself, its successors and assigns, that it will convey Common Elements to the Association as required by Legal Requirements and the Declaration. Provided, however, specific performance shall be the only remedy available for any failure of Declarant to do so, and the Association shall accept conveyance of Common Elements from the Declarant at any time. During the Development Period Declarant reserves an easement in, over, across, under and through the Common Elements for the purpose of constructing any improvements on the Common Elements or for the benefit of the Properties as it deems necessary or advisable. Except as otherwise stated herein, all conveyances by Declarant to the Association of real property may be by special warranty deed and shall be free and clear of all encumbrances and liens, except for the Declaration, Legal Requirements, rights of the Declarant provided for in the Declaration or other Governing Documents, applicable rights of way and easements in documents or plats recorded in the Registry, agreements affecting the Common Elements that have been executed as allowed by the Declaration, applicable ad valorem property taxes for years subsequent to the year in which the conveyance occurs, the Declaration, conservation easements granted to any Person or governmental entity, and other exceptions to title that existed prior to the time of the recording of the Declaration.

Any improvements constructed or placed on, in, under, or over the Common Elements by Declarant and intended for the common use and enjoyment of some or all of the Owners, shall become the property of the Association upon the conveyance of such Common Elements to the Association or, as determined by the Declarant, upon the later completion of such improvements. Provided, however, and notwithstanding the foregoing sentence, improvements constructed or placed on, in, under, or over the Common Elements shall not become the property of the Association upon conveyance of the Common Elements to the Association as follows: (i) improvements (for example, pipes for transmission or water or sanitary sewer) owned by any Governmental Entity or with respect to which dedication to public use is accepted by any Governmental Entity, regardless of when such ownership or dedication occurs, or (ii) improvements (for example, pipes, wires, and other facilities for transmission of electricity, telephone, natural gas, cable television, or internet service) owned by a utility provider, regardless of when such ownership occurs, or (iii) improvements (for example, a storm water drainage pipe) that are located in any easement reserved by Declarant or allowed to be established by Declarant under the Declaration and which serve or benefit other real property that is not part of the Properties and which improvements either are owned by a property owners association, governmental entity, utility provider, or Person other than the Association or such property owners association, governmental entity, utility provider, or Person who has maintenance obligations with respect thereto, or (iv) as provided on any Plat of the Common Elements recorded prior to conveyance of the Common Elements to the Association, or (v) as otherwise provided in the document by which the Common Elements are conveyed to the Association.

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

Section 4.04 Ingress and Egress; Utilities. Notwithstanding anything to the contrary appearing in the Declaration, (i) if ingress and egress from a public or private street to and from any Lot is over any part of the Common Elements as shown on any Plat or described in any document recorded in the Registry, or (ii) Stormwater Control Facilities, stormwater drainage, sanitary sewer, water or other utility services are provided to a Lot over or through an easement located on the Common Elements as shown on any Plat or described in any document recorded in the Registry, any conveyance or encumbrance of the affected portion of the Common Elements shall be subject to those easements for ingress and egress and/or utilities, and no suspension of the rights of the Owner of said Lot in and to the use and enjoyment of the Common Elements as allowed herein shall include suspension of any such rights of such Owner to ingress and egress or utilities.

ARTICLE V
MEMBERSHIP AND VOTING RIGHTS

Section 5.01 Membership. Each and every Owner of a Lot is a Member of the Association, and by execution of the Declaration or by acceptance of a deed conveying to such Owner title to any Lot, each Owner consents to be a Member of the Association, subject to the terms of the Governing Documents. Membership shall be appurtenant to and may not be separated from ownership of the Lot owned by such Owner. An Owner's membership in the Association automatically terminates whenever such Person ceases to be an Owner of a Lot (except that the Declarant's Class B Membership shall terminate only as provided herein), but such termination shall not release or relieve any such Owner from any liability or obligation incurred under the Declaration, nor impair any rights or remedies which the Association or any other Owner has with respect to such former Owner.

Section 5.02 Classes of Voting Members. The Association shall have two (2) classes of voting Members as follows:

Class A. Class A Members are all Owners of Lots, except for the Class B Member. A Class A Member is allocated one (1) vote for each Lot owned by the Class A Member; provided, however, only one (1) Class A Member vote is allocated for each Lot, regardless of the number of Owners thereof. When more than one Person owns an interest (other than a leasehold or security interest, to which voting rights are not applicable) in any Lot, all such Persons shall be Members and the voting rights appurtenant to their Lot shall be exercised as they, among themselves, determine, but fractional voting shall not be allowed.

Class B. The Class B Member is the Declarant. The Class B Member shall have ten (10) votes for each Lot owned by the Class B Member and ten (10) votes for each Proposed Lot owned by the Class B Member.

Provided, however, and notwithstanding anything to the contrary in the Declaration or any other Governing Document, with respect to the dedication, conveyance, or exchange of Common Elements (but not with respect to the mortgage and pledge of Common Elements), at all times during the Development Period the Class B Member is deemed to have the number of votes required under applicable provisions of the Act or the Governing Documents to authorize and require the Association to dedicate, convey, or exchange Common Elements.

The Class B Membership shall terminate at the end of the Development Period. At any time that the Class B Membership does not exist, the Declarant shall be a Class A Member with respect to any Lots owned by the Declarant.

Section 5.03 Exercise of Voting Rights. The exercise of voting rights shall be governed by the Articles and/or Bylaws of the Association, as applicable, including exercise of voting rights by written consent or other method allowed in the Articles and/or Bylaws instead of a vote at a meeting of the Association, or by any combination of voting at a meeting and other method of voting as allowed in the Articles and/or Bylaws. Any provision of the Declaration that refers to a vote of the membership of the Association shall not preclude the exercise of voting rights by such other methods.

ARTICLE VI
ASSESSMENTS AND OTHER CHARGES

Section 6.01 Creation of the Lien and Personal Obligation for Assessments. Each Owner, by execution of the Declaration or by acceptance of a deed or other instrument conveying title to a Lot, whether or not it shall be so expressed therein, is deemed to consent and agree to pay to the Association (or to any Person who may be designated by the Association to collect such monies on behalf of the Association) all assessments and other charges as required or allowed by the Declaration, including the following: (i) annual assessments; (ii) working capital assessment; (iii) stormwater assessments; (iv) special assessments for capital improvements or other matters as set forth herein; (v) special individual assessments levied against an Owner for the purposes as stated herein; (vi) architectural review fees and costs as specified herein; (vii) fines for violations of Restrictions and Rules and Association rules and regulations with respect to use of the Common Elements; (viii) late payment penalties and interest on unpaid assessments; and (ix) other charges imposed under authority contained in the Governing Documents (architectural review fees, fines, penalties, interest and other charges all being referred to herein collectively as "other charges"), and, in addition to such assessments and other charges, to pay all costs, fees and expenses, including reasonable attorneys' fees, incurred by the Association in enforcing or collecting any of the foregoing assessments or other charges against the obligated Owner. All assessments and other charges shall be established and collected as hereinafter provided. All assessments and other charges remaining unpaid for a period of thirty (30) days or longer, together with the costs of collection thereof, including reasonable attorneys' fees, shall constitute a lien on the Lot against or with respect to which they are assessed or charged from the time of the filing of a lien in the office of the Clerk of Superior Court of Wake County, North Carolina, and shall be the personal and continuing obligation of the Person who was the Owner of such Lot at the time when the assessment or other charge first became due and payable. An Owner's personal obligation for payment of such assessments and other charges shall not become the personal obligation of a subsequent Owner unless expressly assumed by the subsequent Owner, although the lien shall

continue against the Lot until the amounts due are paid (or such lien otherwise is terminated by Legal Requirements or as provided herein). No Owner shall be exempt from liability for any assessment provided for herein by reason of non-use of the Common Elements or such Owner's Lot, or abandonment of a Lot, or temporary unavailability of the use or enjoyment of the Common Elements. If necessary to establish the right to collect reasonable attorneys' fees under the Declaration, any obligation of an Owner to pay assessments or other charges or monetary obligations under the Declaration shall constitute evidence of indebtedness for the purpose of establishing under Section 6-21.2 of the North Carolina General Statutes (or any successor statute) the right to collect reasonable attorneys' fees in any action or proceeding to enforce or collect payment of such obligation. Provided, however, the foregoing sentence specifically is intended to supplement, and not to interfere, limit, invalidate or be in conflict with, any provisions of the Act with respect to attorneys' fees.

Section 6.02 Continuing Liability for Assessments. No Owner shall be relieved of, or released from, the obligation to pay assessments and other charges under the Declaration because of any resignation or attempted resignation by such Owner of membership in the Association while such Owner owns a Lot, or because of any suspension of such Owner's membership or membership rights in the Association as allowed under the Governing Documents.

Section 6.03 Nature, Purpose and Use of Assessments. The assessments shall be used by the Association to pay the Common Expenses, including, (i) improvement, maintenance, repair and reconstruction of the Common Elements; (ii) maintenance and repair of private streets, street lights, driveways, walks and parking areas; (iii) procurement and maintenance of insurance; and (iv) payment of any taxes and public assessments assessed against Common Elements. The annual assessment primarily is for the purpose of funding the Common Expenses of the Association, including monies set aside for reserves, for the fiscal year to which it applies and in accordance with the budget adopted by the Association, although such assessments may be used for payment of any Common Expenses as determined by the Board.

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

Section 6.04 Commencement of Assessments. Each Lot becomes subject to all assessments under the Declaration from and after the date on which it becomes a Lot. The annual assessment for any Lot that is not a Lot on the first day of the applicable fiscal year and becomes a Lot on any other day during that fiscal year is determined by multiplying the applicable annual assessment amount by a fraction whose numerator is the number of days remaining in that fiscal year from and after the day on which it becomes a Lot and whose denominator is the total number of days in that fiscal year.

Section 6.05 Budget and Annual Assessments. Beginning with the fiscal year that starts on January 1, 2018, the Board shall adopt for each fiscal year a proposed budget containing an estimate of the total amount believed to be necessary to pay the Common Expenses for that fiscal year, including such reasonable amounts as the Board deems necessary to pay for: (i) maintenance of Stormwater Control Measures for which the Association has maintenance responsibility; (ii) payment of any amounts the Association is required to pay pursuant to a Stormwater Agreement and the City Ordinance; (iii) maintenance of Common Elements other than Stormwater Control Measures; (iv) working capital (available for day-to-day operating expenses of the Association and otherwise uncommitted for specific expenses); (v) reserves for contingencies; and (vi) reserves for repair and replacement of Common Elements and other capital expenses (for example, repainting exteriors of Dwellings), and the proposed budget (and ratified budget) shall contain separate line items for each of the foregoing (but no budget shall be invalid if any one or more of such items are not shown separately). The proposed budget (and ratified budget) shall contain separate line items for all other items as required by Legal

Requirements. In adopting a proposed budget and annual assessment, the Board may consider any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessments during the applicable fiscal year. The proposed budget shall state the amount of the annual assessment per Lot proposed by the Board as necessary to pay for the budgeted Common Expenses, which is the annual assessment that will be assessed upon ratification of the proposed budget. During any fiscal year, without any meeting or vote of the Members, the Board may assess and collect from the Owners one or more "additional assessments", not to exceed a total of 50% of the annual assessment, determined by the Board to be necessary to cover actual Common Expenses that exceed the budgeted amount therefor and new or unexpected additional Common Expenses incurred during the applicable fiscal year. The amount of the annual assessment resulting from budget ratification, plus the total amount of additional assessments permitted for that fiscal year, is referred to herein as the "maximum annual assessment" (for example, if the annual assessment is $100.00 per Lot, the additional assessment amount that could be assessed and collected during the applicable fiscal year is $50.00 per Lot, and the maximum annual assessment for that fiscal year is $150.00 per Lot). The total amount of the annual assessment, including additional assessments, actually assessed against each Lot during a fiscal year is referred to herein as the "actual annual assessment" (for example, if the annual assessment resulting from budget ratification is $100.00 per Lot and an additional $25.00 per Lot is assessed during the fiscal year, the actual annual assessment for that fiscal year is $125.00).

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

Beginning with the annual assessment for the fiscal year that starts on January 1, 2019, the Association shall send written notice of each annual assessment to the Members of the Association (for purposes of notice of all assessments under the Declaration, notice sent to any one (1) of multiple Owners of a Lot is deemed to be notice sent to all of such Owners), which written notice may be in the form of an invoice for the annual assessment. The failure of the Board to establish the amount of any annual assessment or send notice as required herein shall not constitute a violation, waiver or modification of the provisions of the Declaration, or a waiver of the Board's right to establish and collect the annual assessment at any time during the fiscal year to which it is applicable, or a release of any Member from the obligation to pay the annual assessment or any installment thereof for that or any subsequent fiscal year. Until an annual assessment has been established for a fiscal year, the actual annual assessment for the immediately preceding fiscal year shall continue in effect, but when the new annual assessment is established, it shall be retroactive to the first day of the applicable fiscal year, and notice of same shall be sent to the Members. If the annual assessment for any fiscal year has not been established by last day of the immediately preceding fiscal year, the Board may send a notice of assessment to the Members for the amount of the immediately preceding fiscal year's annual assessment, together with notice that a new assessment may be established for that fiscal year that may require an additional payment. Once the new annual

assessment is established, any additional amount owed is due and payable by the payment due date specified in a supplemental notice to the Members.

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

Except as otherwise provided in the Declaration, or in any Supplemental Declaration or Subdivision Declaration not in conflict with the Declaration, or by Legal Requirements (for example, additional or different assessments for Limited Common Elements, which are applicable to some but not all of the Lots, and stormwater assessments, which may be applicable to Lots in different amounts), all annual assessments shall be the same for all Lots.

Section 6.06 Declarant's Obligation to Pay Annual Assessments. With respect to Lots that it owns, Declarant may satisfy its obligation to the Association for payment of annual assessments either by paying the full amount of the applicable annual assessment for each Lot it owns or by paying the amount of the deficit, if any, that results from the total amount of the actual annual assessments levied on all other Lots subject to assessment being less than the amount of actual expenditures by the Association during the fiscal year for items contained in the budget (paying the difference being referred to herein as the "deficit funding obligation" or "funding the deficit"), excluding from such determination any stormwater assessment for excess expenses as described herein. Unless Declarant otherwise notifies the Board prior to the Board's adoption of a proposed budget for the next fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the current fiscal year. Declarant has elected to fund the deficit for fiscal year 2017. The deficit funding obligation does not include any expenses that the Association is unable to meet because of nonpayment of any assessment by Owners other than the Declarant, or because of unusual or extraordinary or unanticipated expenses not included in the budget (for example, a judgment obtained against the Association, or a Common Expense obligation caused by the negligence or misconduct of any Owner or occupant). The deficit funding obligation of the Declarant may be enforced against the Declarant and collected by the Association in the same manner as enforcement and collection of assessments applicable to other Owners.

Regardless of Declarant's election as to payment of annual assessments or funding the deficit, Declarant's obligations with respect to annual assessments may be satisfied by Declarant by any combination of the provision of services or materials toward satisfaction of Common Expenses (including payment for such services or materials directly to the providers thereof), or payment of money to the Association.

Section 6.07 No Annual Assessment for Builders. Notwithstanding anything to the contrary herein, at any time during the Development Period Declarant may provide that annual assessments on Lots owned by Builders be assessed in an amount that is less than the annual assessments (or no annual assessments) for Lots owned by other Class A Members of the Association. By the recording of the Declaration, the Declarant is providing that there shall be no annual assessment for Lots owned by Builders. Upon transfer of title to a Lot owned by a Builder to any Person other than another Builder, the amount of the annual assessment from and after the date of the recording of the deed or other document transferring title shall be the same as the amount of the annual assessment applicable to Lots owned by other Class A Members, and the additional amount of the annual assessment owed for the applicable fiscal year shall be billed and collected by the Association.

For any fiscal year, the Declarant may eliminate, reinstate, or change the reduced annual assessment applicable to Builders by notifying the Board prior to the adoption of the proposed budget for that fiscal year.

Section 6.08 Special Assessments. In addition to the annual assessments authorized herein, except for matters related to stormwater management by the Association (a stormwater assessment being established in another Section of

the Declaration) and subject to the other requirements of the Declaration, the Association may levy special assessments for the purpose of defraying, in whole or in part, the costs or expenses of any one or more of the following:

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

(b) Additions to the Common Elements.

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

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

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

(f) Any other purpose for a special assessment authorized by Legal Requirements or the Governing Documents.

Except as otherwise provided herein, each special assessment assessed under this Section first shall be approved by the affirmative vote of more than fifty percent (50%) of the votes cast by the Members present at a meeting of the Association and, during the Development Period, by the written consent of the Declarant. Provided, however, the Board may impose special assessments against Lots, without a vote of the Members, for the following:

(g) against the Lots in the Properties at the time the judgment was entered, a special assessment to pay for a judgment against the Association; and

(h) against all Lots in the Properties at the time the special assessment is levied, a special assessment to pay for part or all of any assessments against a Lot that remain unpaid after title to the Lot has been transferred to a new Owner in foreclosure of a first mortgage on such Lot or by a deed or other document or proceeding in lieu of foreclosure.

Notices for all meetings of the Association at which there is to be a vote on a special assessment shall include notice of the purpose and amount of the proposed special assessment. A special assessment is effective on the later of the date it is approved by the Members or Declarant (if such approval is required), or such later date adopted by the Members in the vote approving the special assessment, and is due and payable as established by the vote of the Members approving the special assessment, or, if not established by such vote of the Members or assessed by the Board without a vote of the Members as allowed herein, as established by the Board. Except as otherwise allowed by the Declaration (for example, additional or different special assessments applicable to Limited Common Elements, which are applicable to some but not all of the Lots), all special assessments shall be the same for all Lots.

Section 6.09 Special Individual Assessment. In addition to all other assessments, the Board (without the requirement of any vote of the Members) may levy a special individual assessment against any Owner for (i) the repair of any damage to any portion of the Properties, including, without limitation, Common Elements and streets (other than normal wear and tear), caused by the Owner or any such Owner's family members, tenants, contractors, subcontractors, agents, or guests, or (ii) maintenance expenses resulting from the failure of such Owner to maintain adequately that Owner's Lot, or (iii) for any other purposes for which a special individual assessment may be assessed under the Declaration. The notice of such special individual assessment shall describe the nature of the damage and the necessary repairs or maintenance, or any other purpose for the special individual assessment, and any such special individual assessment shall be due and payable to the Association on or before the tenth (10th) day following such the giving of the notice by the Association. The Board

may, in its discretion, levy any such special individual assessment prior to the commencement of the repairs or maintenance for which such special individual assessment is levied; provided that upon the Association's receipt of payment of such special individual assessment the Board promptly shall undertake to have such repairs or maintenance performed and shall refund to such Owner any excess of the amount assessed and paid over the cost of such repairs or maintenance. In the event that the cost of such repairs exceeds the amount assessed and paid, the Board may assess another special individual assessment against such Owner for the excess costs

Section 6.10 Stormwater Assessment. Notwithstanding anything to the contrary in the Declaration, and in keeping with the obligation of the Association under Section 47F-3-107(a) of the Act to be "responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the lot owners as necessary to recover the costs of such maintenance, repair, or replacement", (i) if the Board determines that the amount required in any fiscal year to pay for the Common Expenses, including the Association's obligation, if any, for stormwater management, maintenance of Stormwater Control Measures and payment of sums due from the Association under the City Ordinance and Stormwater Agreement for any part or all of the Properties, would cause the Association's total expenses for that fiscal year to exceed the amount that would be due and payable to the Association if all Lots were assessed in the amount of the maximum annual assessment for that fiscal year (such excess amount of total expenses for that fiscal year being referred to in this Section as "excess expenses"), and (ii) the Board determines that there are not sufficient reserve funds available both to pay the excess expenses and continue to have adequate reserve funds, and (iii) the maximum annual assessment has been assessed for that fiscal year, and (iv) Declarant either has paid annual assessments to the Association or has funded the deficit for that fiscal year in an amount equal to or greater than the maximum annual assessment on all Lots owned by Declarant, then the Board may assess for that fiscal year, a "stormwater assessment" in an amount sufficient to pay for the excess expenses. The amount of such stormwater assessment shall be determined and assessed against all Lots in the Properties at the time the assessment is made, and no vote of the Members is required. The payment due dates for such stormwater assessment shall be as determined by the Board and shall be enforceable against Owners and their Lots in the same manner as annual assessments. Provided, however, during the Development Period no such stormwater assessment shall be assessed unless the same shall have been consented to in writing by the Declarant. Further provided, except as may be necessary to account for different Stormwater Control Measures, the City Ordinance and/or Stormwater Agreements (or other agreements related to stormwater) applicable to different Lots as allowed in the Declaration, all stormwater assessments shall be the same for all Lots. Any stormwater assessment for excess expenses is in addition to all other assessments provided for herein.

Section 6.11 Collection of Assessments; Penalties for Late Payment. Assessments may be collected on a monthly, quarterly, annual or other basis, as determined by the Board, with the payment due date to be specified in the notice of the applicable assessment. The billing schedule and payment due date shall be the same for all Owners. Provided, however, the Board has the power, in its sole discretion and upon such terms as the Board deems appropriate, to allow percentage discounts to Owners who pay assessments earlier than the payment due date therefor; provided, however, all such discounts shall be made available and applied uniformly to all Owners. Subject to any limitations contained in the Governing Documents or any Legal Requirement, the Board has the authority to establish the payment due dates, interest rate on unpaid amounts, and penalties for late payment of assessments and other charges. Assessments and other charges not paid by the payment due date shall bear interest at a rate equal to the lesser of (i) eighteen percent (18%) per annum, or (ii) the highest lawful rate under Legal Requirements, or (iii) the amount, if any, established by the Board (or, in the absence of any amount being established by the Board, the lesser amount otherwise established by this subsection). In addition to the obligation to pay the assessment and other charges and interest charges thereon, the defaulting Owner also shall pay all of the Association's costs and expenses of collection thereof, including reasonable attorneys' fees. The Board may authorize a management company or other Person, on behalf of the Association, to bill and collect all assessments and other charges payable under the Declaration.

Section 6.12 Certification of Assessments Paid. The Association, or any property manager or other Person authorized by the Association, upon written request, shall furnish to any Owner or other Person designated by such Owner a certificate signed by an officer of the Association or other Person authorized by the Board to give such certificate setting

forth whether or not and through what date the assessments and other charges against that Owner's Lot have been paid, and the amount of any unpaid assessments or other charges. The certificate shall be furnished within ten (10) business days after receipt of the request therefor and is binding on the Association, the Board and every Owner. The Association or property manager or other Person authorized to furnish the certificate may charge a reasonable fee for furnishing the certificate as established or approved by the Board.

Section 6.13 Assessment Lien and Foreclosure. The assessments and other charges provided for herein shall be the personal and individual debt of each Person who, at the time of the assessment or other charge, is an Owner of the Lot against which they are assessed or charged. Any assessment or other charge not paid on or before the payment due date and remaining unpaid for a period of thirty (30) days or longer, together with the fines, penalty and interest charges as provided in the Declaration, plus the costs of collection (including reasonable attorneys' fees), shall be a charge and continuing lien on the Lot against which they are assessed or charged from and after the date on which a claim of lien is filed by the Association in the office of the Wake County Clerk of Court. Except as otherwise provided in the Declaration or by Legal Requirements, such lien shall be superior to all other liens and charges against the Lot. The Board shall have the power, in its sole discretion, to subordinate the lien to any other lien. The claim of lien shall set forth the name and address of the Association, the name of the record Owner of the Lot at the time the claim of lien is filed, a description of the Lot, and the amount of the lien claimed. In addition to the claim of lien, the Association may execute, issue or record such other evidence of the lien as the Board deems necessary. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under a power of sale or in any other manner allowed or required by Legal Requirements, and/or the Association may institute suit against the Owner personally obligated to pay the assessment or charge, and/or the Association may seek any other available remedy or relief. In any foreclosure proceeding, the Association shall have the right to appoint a trustee or commissioner (or other appropriately named Person) to implement the foreclosure, and the defaulting Owner shall be required to pay the costs, expenses, trustee's (or commissioner or other) fees, and reasonable attorneys' fees incurred by the Association. The Association shall have the power to bid on and purchase the Lot at foreclosure and to acquire, hold, lease, mortgage, convey or otherwise deal therewith. The remedies against a defaulting Owner and such Owner's Lot are cumulative and not mutually exclusive, and the Association may seek none, or any one or more of such remedies, separately or simultaneously, as deemed appropriate by the Board.

Section 6.14 Lien Priority. The lien for unpaid assessments and other charges provided for herein is prior to all liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including a mortgage or deed of trust on a Lot) recorded before the docketing of the claim of lien in the office of the Wake County Clerk of Court, and (ii) liens for real estate taxes and other governmental entity assessments and charges against the Lot. Provided, however, this Section does not affect the priority of mechanic's or materialmen's liens. A lien for unpaid assessments and other charges is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the docketing of the claim of lien in the office of the Wake County Clerk of Court. No Person, including the holder of a first mortgage on a Lot, and including the heirs, successors, and assigns of such Person, who purchases or obtains title to a Lot as a result of foreclosure of a first mortgage or deed or other document or proceeding in lieu of foreclosure, shall be liable for the assessments against such Lot which became due prior to the acquisition of title to such Lot by such holder or other Person. Such unpaid assessments shall be deemed to be Common Expenses collectible from all the Owners, including such purchaser, its heirs, successors, and assigns in the event that the Association is unable to collect, or chooses not to pursue collection, from the Person who was the Owner of the Lot during the time the assessments were assessed against the Lot.

Section 6.15 Reserve Funds. From the annual assessments and working capital assessments the Board, in the exercise of its reasonable discretion, shall establish and maintain reserve funds for (i) working capital, (ii) contingencies, (iii) acquisition, replacements, and maintenance of Common Elements and improvements thereon, and (iv) other financial obligations of the Association. If reserve funds become excessive, as determined by the Board, the Board may adjust the reserve funds by reallocation to other budget items or by applying excess amounts as credits against annual assessments, or by refunding the excess amount to the then Owners.

Section 6.16 Working Capital Assessment. At the closing of the sale by Declarant of a Lot on which a Dwelling exists, or at the closing of the sale of a Lot by the Declarant to any Person other than a Builder or a successor or assignee Declarant, or at the closing of the sale of a Lot by a Builder to any Person other than the Declarant or another Builder, whether or not there is a Dwelling on the Lot, or at the time of the recording of a deed or other document in a foreclosure or in a proceeding in lieu of foreclosure to a Person other than the holder of the mortgage (or such holder's affiliate) subject to the foreclosure or proceeding in lieu of foreclosure, the Declarant, or a Builder, or at the time of the sale of the Lot by the holder (or such holder's affiliate) who acquired the Lot in foreclosure or a proceeding in lieu of foreclosure to a Person other than the Declarant or a Builder, the purchaser of the Lot shall pay to the Association a "working capital assessment" in the amount to be determined by Declarant to be applied to payment of Common Expenses as determined by the Board. Provided, however, the working capital assessment shall be paid only once with respect to each Lot, at the time of the first of the applicable events that occurs, and it is in addition to all other assessments under this Declaration. All working capital assessments may be enforced and collected against the purchaser in the same manner as other assessments may be enforced and collected under this Declaration.

Section 6.17 Assessments for Limited Common Elements. With respect to any portion of the Properties owned by Declarant (and, with the written consent of the Owner thereof, with respect to any portion of the Properties not owned by Declarant), the Declarant reserves the right, by recording Supplemental Declarations or Subdivision Declarations or other documents, to subject such portions of the Properties located in one or more phases, sections, groups, or subdivisions of the Properties to provisions requiring the Owners thereof to pay additional assessments to the Association for the maintenance of Limited Common Elements allocated to such phase, section, group, or subdivision of the Properties, including any one or more of the following: (i) private streets; (ii) landscaping, signs and decorative features; (iii) Stormwater Control Measures; and (iv) anything else with respect to such Limited Common Elements that would be a Common Expense for Common Elements.

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

Section 6.18 No Default Under Insured Mortgage. Nothing contained in the Declaration shall be construed as stating or implying that any failure of an Owner to pay assessments constitutes a default under any mortgage on such Owner's Lot that is insured by the FHA, VA, FNMA, FHLMC, or other Secondary Mortgage Market Agency, or any mortgage program administered by any of said agencies.

ARTICLE VII
INSURANCE

Section 7.01 General Provisions for Association Insurance.

The Board shall have the power on behalf of the Association to: (i) purchase insurance policies relating to the Common Elements and the business of the Association; (ii) adjust all claims arising under such policies; and (iii) sign and

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

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

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

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

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

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

At the time of the execution of this Declaration, Section 47F-3-113 of the Act requires that the Association have insurance as set forth therein and contains provisions regarding the use and distribution of insurance proceeds. The provisions of Section 47F-3-113 of the Act shall govern in the event of any conflict between that Section of the Act and Articles 7 and 8 of the Declaration. The Association maintaining insurance in amounts in excess of the requirements in the Act is not a conflict.

Section 7.02 Association Property Insurance. The Association, to the extent that it is reasonably available, shall obtain and maintain in effect property insurance on all improvements on all Common Elements and on all improvements owned by the Association and located on real property not owned by the Association, insuring against all risks of direct physical loss commonly insured against, including fire damage and extended coverage perils. The total amount of such insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the improvements at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. The foregoing property insurance shall be obtained by the Association as it becomes the owner of the improvements to be insured, but in any event with respect to such improvements not later than the first conveyance of a Lot to a Class A Member of the Association who is not a Builder. As and when determined to be necessary by the Board, the Association also may obtain and maintain appropriate coverage on any other personal property owned by the Association.

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

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

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

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

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

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

Section 7.03 Association Liability Insurance. The Association, to the extent that it is reasonably available, shall obtain and maintain liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership or maintenance of all Common Elements and of all improvements owned by the Association and located on real property not owned by the Association. The foregoing liability insurance shall be obtained by the Association as it becomes the owner of the real property or becomes the owner of improvements, as the case may be, but in any event not later than the first conveyance of a lot to a Class A Member of the Association who is not a Builder. "Umbrella" liability insurance in excess of the primary limits may be obtained in reasonable amounts as determined by the Board in its sole discretion.

Section 7.04 Other Insurance or Bonds for the Association. The Association may obtain and maintain other insurance or bonds as follows:

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

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

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

(d) directors and officers liability insurance; and

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

Section 7.05 Owners' Insurance. Each Owner shall or may, as indicated, obtain and maintain in effect insurance as follows:

(a) The Dwelling and other improvements on a Lot at all times shall be insured in an amount equal to one hundred percent (100%) insurable replacement value. Each such insurance policy shall contain waiver of subrogation provisions and shall insure against all of the following:

(b) Loss or damage by fire and other hazards, including extended coverage, vandalism, and malicious mischief; and

(c) Such other risks as from time to time customarily are insured with respect to a Dwelling on land.

(d) Public liability insurance with respect to the Dwelling and other improvements on a Lot and the Owner of the Lot or other occupants of the Dwelling on the Lot at all times shall be maintained with limits of liability of not less than Three Hundred Thousand and 00/100 Dollars ($300,000.00) per occurrence.

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

(f) All policies obtained and maintained by Owners shall be written by reputable companies licensed or qualified to do business in North Carolina.

ARTICLE VIII
REPAIR AND RESTORATION OF THE PROPERTIES

Section 8.01 When Required.

(a) Common Elements. If all or any part of the Common Elements or improvements on other real property for which the Association has maintenance responsibility is damaged or destroyed, the Association promptly shall repair or replace same unless (i) the Declaration is terminated, (ii) repair or replacement would be illegal under any Legal Requirement, or (iii) the Members decide not to repair, restore or replace by a vote of eighty percent (80%) or more of the votes cast by the Members present at a meeting of the Association (which vote, with respect to any Limited Common Elements, must have the approval of one hundred percent (100%) of the Members to which such Limited Common Elements is allocated). The cost of repair or replacement in excess of insurance proceeds and applicable reserves is a Common Expense, for which there may be a special assessment against the applicable Members. This Section shall not be construed as any limitation on the rights of the Association under the Act against an Owner who is responsible for the damage to the Common Elements or the rights of the Association to seek damages or other relief against any other Person who is responsible for the damage to the Common Elements.

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

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

Section 8.02 Eminent Domain.

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

(b) Taking of Lot. If there is a Taking of all of a Lot, or a Taking of part of a Lot leaving the Owner with a remnant which may not practically or lawfully be used for a Dwelling, the award shall compensate the Owner for the Lot and the Owner's interest in the Common Elements. Upon such Taking, there shall be no votes in the Association allocated to such Lot, or remnant thereof, nor shall such Lot or remnant thereof, be subject to any further assessments under the Declaration, the Lot's "allocated interests" (as defined in the Act) automatically are to be reallocated as provided in the Act, and the remnant remaining following such Taking shall be Common Elements. If any reallocation occurs under this subsection, the Board promptly shall prepare, execute, and record an amendment to the Declaration reflecting the reallocation of the votes and assessments.

If there is a Taking of part of a Lot that either does not take any of the Dwelling on the Lot or that does not affect the portion of the Lot on which it is anticipated that the Dwelling will be constructed: (i) the award shall compensate the Owner for the reduction in value of the Lot; and (ii) with respect to determining the award and the allocated interests of the Lot in the Association following the Taking, there shall be no reduction in the vote allocated to that Lot nor in the assessments assessed against such Lot.

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

If any portion of any award for a Taking of the Common Elements is attributable to any Limited Common Elements and there are no improvements thereon, such portion of the award shall be distributed among the Owners to whose Lots the Limited Common Elements were allocated at the Time of the Taking. If there are improvements on the affected Limited Common Area a determination shall be made, in the same manner as the determination with respect to Common Element improvements, but with any vote by Members being limited to those Members who own the Lots to which the Limited Common Elements are allocated, whether or not to restore or replace any affected Limited Common Elements improvements. If a determination is made not to restore or replace such Limited Common Elements improvements, or if there are proceeds remaining after such repair or restoration is completed, such portion of the award or remaining portion of the award shall be apportioned among the Lots to which the Limited Common Elements were allocated at the time of the Taking. With respect to the foregoing, the amount of the award or remaining amount of the award shall be divided by the number of Lots associated with the Limited Common Elements subject to the Taking to determine the amount per Lot, which then shall be distributed to the Owners of the applicable Lots.

ARTICLE IX
USE AND CONDUCT

Section 9.01 Use of the Properties. Except as allowed by the exercise of a Special Declarant Right, no portion of the Properties shall be used for other than single-family residential purposes, which under the Declaration means one Dwelling per Lot and related purposes such as public or private streets, utilities, greenways, open space, recreation, stormwater management, other purposes substantially related to residential use which are allowed by Legal Requirements, unless such substantially related purposes are prohibited by other provisions of the Governing Documents, and for all other purposes specifically required (as contrasted with allowed) by Legal Requirements. Provided, however, and notwithstanding the foregoing sentence, during the Development Period, and subject to Legal Requirements: (i) Declarant, and any Builder or other Person with Declarant's consent, may maintain model homes, sales offices, temporary construction trailers, and other facilities within the Properties for the purpose of conducting business related to the development, improvement, and/or sale or marketing of any part or all of the Properties; and (ii) Declarant, and any Builder or other Person with Declarant's consent, may conduct such activities within the Properties as may be necessary or desirable in connection with the development, improvement, and/or sales or marketing of any part or all of the Properties.

Section 9.02 Leases. Every lease for any Lot or Dwelling shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and other Governing Documents, and that each lessee shall comply with the terms of such documents. Provided, all such leases are subject to the Declaration and other Governing Documents, whether or not specifically stated in the lease.

Section 9.03 Legal Requirements. Nothing herein contained shall be deemed to constitute a waiver of any Legal Requirement applicable to any portion of the Properties, and all Legal Requirements relative to the construction of improvements on, and/or use and utilization of, any portion of the Properties shall be complied with by the Owners and occupants of such portions of the Properties, whether or not the Approved Plans for same are in compliance with such Legal Requirements. Provided, that in any instance in which the Governing Documents contain a provision that requires something more than or in addition to, or prohibits something otherwise allowed under, a Legal Requirement (for example, prohibition of a use allowed under a Legal Requirement or requirement of a greater distance or size than required under a Legal Requirement), the provisions of the Governing Documents shall control unless such requirement or provision is prohibited by a Legal Requirement.

Section 9.04 New Construction. Unless otherwise allowed by Declarant during the Development Period, construction of new Dwellings only shall be permitted on Lots (as contrasted with the moving of any existing building or structure onto any Lot and remodeling or converting same into a Dwelling). Provided, however, the foregoing shall not be construed as prohibiting maintenance of, remodeling of, or construction of additions to, existing Dwellings that previously have been

constructed in compliance with the Declaration, provided that such maintenance, remodeling or addition is performed in accordance with the Approved Plans therefor (or Architectural Guidelines not requiring Approved Plans) and other requirements of the Declaration.

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

Section 9.05 Obstructions, etc. No Owner shall obstruct any of the Common Elements, streets, Town greenways or greenway easements, or any easement providing access to Common Elements or Town greenways or greenway easements, nor shall anything be kept, stored, altered, constructed or planted in or on the Common Elements or removed therefrom (except as necessary to prevent injury to person or property or to comply with a Legal Requirement), without the prior consent of Declarant, during the Development Period, and, thereafter, the Board, or except in the exercise of any valid easement over any portion of the Common Elements. Provided, however, the Association, and, during the Development Period Declarant and Builders (with Declarant's consent), shall have the right to maintain signs in and on the Common Elements, and to maintain in the Common Elements such materials, equipment and other apparatus, as may be reasonably necessary to enable the Association to perform its functions and provide the services under the Declaration, or to enable Declarant or such Builders to develop, improve, sell, and market the Properties. Following the end of the Development Period each Builder shall have the right, subject to the reasonable review and approval of the Board (or Architectural Review Committee if directed by the Board), to maintain signs in the Common Elements as such Builder determines is reasonably necessary or desirable for marketing and selling all portions of the Properties owned by such Builder. The rights of use and enjoyment of the Common Elements conferred upon Owners by the Declaration do not include the right to interfere with the use or maintenance of the Common Elements by Declarant, any Builder, or the Association.

Section 9.06 Owner Liability. If any Owner is legally responsible for damaging any Common Elements or other property or improvements for which the Association has maintenance responsibility, the Association may direct such Owner to repair such damage, or the Association itself may cause the repairs to be made and recover damages from the responsible Owner, including costs incurred in seeking and enforcing such recovery or other applicable legal remedies, including reasonable attorneys' fees. In addition to or as an alternative to the foregoing, the Association may impose a special individual assessment against any such Owner.

Section 9.07 Prohibition on Use for Streets. Without the written consent of Declarant during the Development Period (and, thereafter, by the Board), which consent may be given or denied in the sole discretion of the party having the right to give the consent, and which consent may be given and evidenced only by the execution by the consenting party of a plat or document recorded in the Registry, no Lot or portion thereof may be used, established or dedicated as a public or private street, driveway, or access easement, where one of the purposes therefor or results thereof is to provide pedestrian or vehicular access to any property that is not part of the Properties or Proposed Properties as shown on the Subdivision Plan, except for such vehicular and/or pedestrian access easements as are described or shown in documents or on plats of the Properties recorded in the Registry and are established to provide access to Town parks, Town greenways, or Town greenway easements.

Section 9.08 Recreational Areas, Equipment, and Facilities. The Association may adopt and enforce Restrictions and Rules relating to the location, type, number, and use of recreational areas, equipment and facilities on Lots and other portions of the Properties, including requirements for screening from view.

Section 9.09 Restricted Actions by Owners. No Owner shall do or permit anything to be done or kept within the Properties or on the Common Elements which will result in the cancellation of or increase in the cost of any insurance

carried by the Association, or which would be in violation of any Legal Requirement or any Restriction or Rule established by the Association. No waste shall be committed on the Common Elements, except as may be necessary to enable Declarant, a Builder, the Association, an Owner, or the holder of an easement to construct or maintain improvements (in accordance with Approved Plans when applicable), or to exercise any rights reserved or afforded to them hereunder or provided in an applicable easement, or except as may be necessary to enable the Association to perform its functions and provide services under the Declaration. Each Owner shall comply with all Legal Requirements applicable to any part or all of the Properties, including applicable zoning ordinances and building codes.

Section 9.10 Soil Erosion Control. During all periods of construction on any portion of the Properties, the Owner thereof, or the Person exercising easement rights thereon, shall maintain proper and adequate soil erosion control to protect other portions of the Properties from accumulated silt and other soil erosion.

Section 9.11 Temporary Structures Prohibited. No structure of a temporary character shall be used on any portion of the Properties at any time as a Dwelling.

Section 9.12 Exclusion for Declarant. Notwithstanding any other provision of the Declaration or any other Governing Documents, Declarant, during the Development Period (and thereafter, the Board) has the right, permanently or temporarily (as determined in the discretion of Declarant or the Board, as applicable) to waive any one or more of the provisions of this Article with respect to construction or maintenance of any improvements in the Properties, except that there shall be no waivers with respect to soil erosion controls and Legal Requirements. Any such waiver granted by the Declarant to a Builder or other Person during the Development Period shall be binding on the Board after the Development Period has ended.

ARTICLE X
RESTRICTIONS AND RULES

Section 10.01 Framework for Regulation. As part of the general plan of development for the Properties, the Governing Documents establish a framework of affirmative and negative covenants, easements, and restrictions. Within that framework, the Declarant, Board, and Members need the ability to be more specific and to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology. Therefore, this Article discusses Restrictions and Rules and procedures for modifying and expanding Restrictions and Rules. This Article does not apply to rules and regulations relating to use and operation of the Common Elements adopted by the Board, unless the Board in its discretion chooses to submit to such procedures. Except for the provisions requiring compliance with Restrictions and Rules and enforcing such compliance, this Article does not apply to administrative policies which the Board adopts to interpret, define or implement the Restrictions and Rules, nor does it apply to Architectural Guidelines.

Section 10.02 Restrictions and Rules. All Owners and occupants of Lots and Dwellings and their guests and invitees shall abide by the Restrictions and Rules. The Declarant and the Association shall have the power to enforce compliance with the Restrictions and Rules in the same manner and to the same extent that the Declaration provides for enforcement of the Declaration, and any Person determined by judicial action to have violated the Restrictions and Rules shall be liable to the Declarant or Association for all damages and fines, including all costs incurred in seeking and enforcing applicable legal remedies, including reasonable attorneys' fees.

Section 10.03 Rule Making Authority.

Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt, amend, modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules. The Board shall send notice to all Owners (notice to any one Owner of a Lot being sufficient) concerning any such proposed action at least five business days prior to the Board meeting at

which such action is to be considered. Owners shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken. During the Development Period, no action taken by the Board with respect to Restrictions and Rules shall be effective unless approved in writing by the Declarant.

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

Class A Members representing more than 50% of the total number of votes in the Association, at an Association meeting called for such purpose, may vote to adopt rules that modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules then in effect. Provided, however, during the Development Period no such action shall be effective without the written approval of the Declarant. Restrictions and Rules adopted by the Class A Members are effective upon adoption or such later date specified by the vote to adopt.

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

Notwithstanding the foregoing procedures for amending the Restrictions and Rules, and notwithstanding anything to the contrary elsewhere in this Article or the Declaration, during the Development Period the Declarant, in its sole discretion and without any prior notice to any Person, may adopt, amend, modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules, and all such Restrictions and Rules shall control over any contrary Restrictions and Rules adopted, amended, modified, canceled, limited, excepted, or expanded in any other manner during the Development Period. Commencing with the time that there are any Class A Members of the Association other than Builders, prior to any action taken by the Declarant under this subsection becoming effective, the Declarant, or the Board at the direction of the Declarant, shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner (notice to any one Owner being sufficient), which notice shall state action taken and the effective date of the action, which date may be any time on or after the date on which the notice is given to the Owners.

Restrictions and Rules may, among other things, govern parking of vehicles and other objects in the Common Elements, and may assign certain parking spaces for the exclusive use of the Owners of one or more Dwellings or groups of Dwellings.

Section 10.04 Owners' Acknowledgment and Notice to Purchasers. All Owners are given notice that use of their Lots, Dwellings, and the Common Elements is subject to the Restrictions and Rules, if any. By acceptance of a deed, each Owner acknowledges and agrees that the use and enjoyment and marketability of such Owner's Lot and Dwelling

can be affected by this provision and that the Restrictions and Rules may change at any time. All purchasers of Lots and Dwellings are notified that, as provided for herein, the Declarant, or the Board, or Members of the Association may adopt Restrictions and Rules or changes to any Restrictions and Rules in effect at any particular time.

Section 10.05 Protection of Owners and Others. All Restrictions and Rules shall comply with the following provisions:

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

(b) Displays. The rights of Owners to display religious and holiday signs (the word "sign" or "display" as used in the Declaration includes signs, banners, flags (including a flag of the United States of America, an American flag, a United States flag, or a North Carolina flag), symbols, decorations, and other displays) inside Dwellings shall not be abridged, except that there may be rules regulating the number, size, time, and place and manner of posting or displaying such signs that are located outside of or visible from outside of the Dwelling, including regulation or specification of design criteria (for example, color, style, materials). No rules shall regulate the content of political signs; however, rules may regulate the number, size, time, and place and manner of posting or displaying, such political signs that are located outside of or visible from outside of the Dwelling, including regulation or specification of design criteria (for example, color, style, materials), all in accordance with the Legal Requirements. Signs required by Legal Requirements or prohibited by Legal Requirements from being excluded or prohibited shall be allowed (for example, a street number sign for a Dwelling required by the City). However, to the extent that it would not violate the Legal Requirement, rules may regulate the number, size, time, and place and manner of posting or displaying, such signs, including regulation or specification of design criteria (for example, color, style, materials).

(c) Household Composition. No rule shall interfere with the Owners' freedom to determine the composition of their households, except that rules may require that all occupants be members of a single housekeeping unit and may limit the total number of occupants permitted in each Dwelling on the basis of the size and facilities of the Dwelling and/or its fair use of the Common Elements.

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

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

(f) Alienation. No rule shall prohibit leasing or transfer of any Dwelling, or require consent of the Association or Board for leasing or transfer of any Dwelling, provided, however, rules may require a minimum lease term of up to 12 months and the use of lease forms approved by the Board with respect to the provisions of the Governing Documents.

(g) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in a Dwelling or on a Lot prior to the adoption of such rule if such personal property was in compliance with all rules

previously in force. This exemption shall apply only during the period of such Owner's ownership of the Lot and shall not apply to subsequent Owners who take title to the Lot after adoption of the rule.

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

The foregoing limitations shall limit only the rule making authority exercised under this Section and shall not apply to amendments to the Declaration adopted as provided in the Declaration.

ARTICLE XI
ARCHITECTURAL APPROVAL

Section 11.01 Architectural Review Committee - Jurisdiction and Purpose. Except for ordinary and routine maintenance to an existing Dwelling or other improvement on a Lot, and excluding planting and maintenance of flowers, bushes, grass and trees that do not result in any material change in the landscaping for a Lot approved as part of the Approved Plans ("material" being as determined by the Architectural Review Committee) or allowed by Architectural Guidelines, and except as otherwise provided herein: no site preparation of a Lot, no change in grade or slope, no construction of, alteration of, additions to, or changes to any improvement on a Lot (including a Dwelling or other building or improvement on a Lot, and including any conversion of a garage or carport into living space) shall be commenced, nor shall any of the same be placed, altered or allowed to remain, until the "Architectural Review Committee" has approved in writing the Plans therefor or the Architectural Guidelines allow the improvement without obtaining Approved Plans. The Architectural Review Committee is established to assure, insofar as is reasonable and practicable, that improvements are constructed and maintained in a manner that provides for harmony of external design and location in relation to Dwellings and other improvements in the Properties and to natural features and topography, that avoids improvements deleterious to the aesthetic or property values of any portion of the Properties, and that promotes the general welfare of the Owners. Notwithstanding anything to the contrary expressed or implied herein: (i) all Approved Plans and other architectural approvals approved or given by the Declarant during the Development Period, all improvements constructed or maintained by Declarant or the Association within the Properties, all portions of the Properties owned by Declarant or the Association, all Common Elements and improvements therein maintained by the Association, and all portions of the Properties owned by or subject to easements in favor of the Town or public utility providers (except for any such portions of the Properties that contain or are proposed to contain Dwellings or other buildings and associated improvements), are specifically excluded from the requirements of this Article; and (ii) during the Development Period (x) the Declarant has the right to exercise all rights of the Architectural Review Committee and the Board that are described in this Article, including whether to utilize an Architectural Review Committee or to serve as the Architectural Review Committee itself, (y) the Declarant determines the matters, if any, to be reviewed by the Architectural Review Committee, and (z) any decision of the Declarant made during the Development Period with respect to any matter subject to this Article controls over any contrary decision of the Architectural Review Committee or the Board. Declarant, in its sole discretion, may require applicants for approvals being considered by Declarant to follow the procedural requirements of this Article or waive any part or all of such procedural requirements, or may impose procedural requirements that are different from those contained in this Article.

Section 11.02 Composition. During the Development Period, the Architectural Review Committee, if utilized by Declarant, may consist of such number of Persons as determined by Declarant. Declarant, in its sole discretion, has the right to remove and replace the Persons appointed by it to the Architectural Review Committee. Following the end of the Development Period, the Architectural Review Committee shall consist of not less than three (3) Persons, who shall be appointed by, and shall be subject to removal with or without cause by, the Board (or the Board may serve as the Architectural Review Committee if it is unable to obtain 3 or more Persons to serve). Persons who serve on the Architectural Review Committee are not required to be Members of the Association.

Section 11.03 Procedure. Unless otherwise permitted by the Architectural Review Committee in its sole discretion, prior to the commencement of any construction, alteration, addition, or placement of any improvement requiring approval by the Architectural Review Committee, Plans for the proposed improvement shall be submitted to the Architectural Review Committee, in such format and in such numbers or sets (not to exceed three) as the Architectural Review Committee may require. The Architectural Review Committee shall have the right to refuse to approve any Plans for improvements which are not, in its sole discretion, suitable or desirable for the Properties, including for any of the following: (i) lack of harmony of external design with surrounding structures and environment; and (ii) aesthetic reasons. Each Owner acknowledges that determinations as to such matters may be subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. Unless a written response is given by the Architectural Review Committee within sixty (60) days following its receipt of the required number of complete sets of Plans and payment by the applicant of any applicable processing fee and consulting fees due and payable at the time request for approval of Plans is submitted by the applicant, the Plans shall be deemed approved. At any time that the Architectural Review Committee consists of more than one individual, decisions of the Architectural Review Committee shall be by majority vote of its members present at a meeting thereof (or by the written consent of a majority of all the members of the Architectural Review Committee). The written response of the Architectural Review Committee may be an approval, a denial of approval, a conditional approval, or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was incomplete or inadequate, and the sixty (60) day time period for further Architectural Review Committee response shall commence only upon receipt of the requested additional information. If conditional approval is granted, and construction, alteration, addition or placement of the improvement thereafter commences, the conditions imposed shall become fully a part of the Approved Plans. Any material modification or change in the Approved Plans must again be submitted to the Architectural Review Committee for its review in accordance with the foregoing requirements or such other procedures as adopted by the Architectural Review Committee. If the Plans are approved, or conditional approval is given, at least one set of Approved Plans shall be retained by the Architectural Review Committee and at least one set of Approved Plans shall be returned to the applicant. The Architectural Review Committee shall keep such other records of its activities as it is instructed to keep by either the Declarant or the Board, whichever is applicable.

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

Declarant, during the Development Period and, thereafter, the Board, and the Architectural Review Committee as authorized by the Declarant or the Board, as applicable, may establish, amend, revise and/or delete Architectural Guidelines for one or more types of improvements to be constructed or maintained on any portion of the

Properties, which Architectural Guidelines shall not conflict with the specific terms of the Declaration or any applicable Supplemental Declaration or Subdivision Declaration, shall be fair and reasonable, and shall carry forward the spirit and intention of the Declaration. Architectural Guidelines may be enforced in the same manner and to the same extent as the provisions of the Declaration may be enforced. If there is any conflict between Approved Plans and Architectural Guidelines, the Approved Plans control, it being within the discretion of the Architectural Review Committee to approve Plans that differ in one or more respects from the then existing Architectural Guidelines. Compliance with Architectural Guidelines does not guarantee approval by the Architectural Review Committee of Plans for improvements that must be submitted for approval. With respect to improvements other than initial construction of a Dwelling, the Architectural Guidelines may, but shall not be required to, allow construction or maintenance of one or more types of improvements in accordance with the Architectural Guidelines without submitting the Plans therefor to the Architectural Review Committee and going through the formal approval process provided for herein, and subject to such conditions and requirements as specified in the Architectural Guidelines. Architectural Guidelines may include any or all of the following: types of improvements allowed; types of materials allowed; permitted colors; architectural styles; minimum and/or maximum square footage for Dwellings, garages, and other buildings or structures; minimum distances that Dwellings and other improvements must be located from Lot boundary lines; landscaping requirements; and screening requirements. Unless a waiver or variance is granted by the Declarant or the Architectural Review Committee, as applicable, the Architectural Guidelines in effect at the time construction of an improvement is commenced or, if no construction is required, the time that the improvement is first placed or used on the Lot, govern as to whether or not that improvement complies with the Architectural Guidelines.

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

Approval by the Architectural Review Committee of any Plans shall not relieve the owner of the applicable Lot from any obligation to obtain all required Town approvals and permits, and shall not relieve such Owner of the obligation and responsibility to comply with all Legal Requirements with respect to such improvements. An Owner also must comply with all applicable Legal Requirements with respect to Improvements constructed, placed, or used on a Lot in compliance with Architectural Guidelines.

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

Notwithstanding anything to the contrary herein, architectural approvals given prior to the end of the Development Period by the Declarant or by an Architectural Review Committee appointed by the Declarant shall remain in effect following the end of the Development Period, but subject to expiration if the construction or installation of the approved improvements is not completed within any applicable time limits required by any Governing Documents or the

Approved Plans. Approved Plans may not be revoked or withdrawn by the Architectural Review Committee without the written consent of the Person who owns the portion of the Properties to which the Approved Plans are applicable.

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

Unless the Declarant is serving as the Architectural Review Committee, an applicant Owner who disagrees with any decision of the Architectural Review Committee may appeal the decision to the Board by giving written notice of appeal within fifteen (15) days following receipt of notice of disapproval or of approval with conditions not agreeable to the applicant Owner. The Board then shall review the Plans and any additional information requested by the Board, and shall give the applicant Owner and the Architectural Review Committee a reasonable opportunity, at one or more meetings of the Board, to present evidence and arguments as to why the decision should be affirmed or overruled. Following the last such meeting the Board, by majority vote, either shall affirm or overrule, in whole or in part, the decision of the Architectural Review Committee, and shall notify the Architectural Review Committee and the applicant Owner of its decision within thirty (30) days following its decision. The decision of the Board is final, subject to the rights of Declarant during the Development Period to overrule any such decision of the Board.

Section 11.04 Commencement and Completion of Construction. Unless the time period is extended by the Architectural Review Committee, Approved Plans for a Dwelling or other improvement expire unless construction or installation of the Dwelling or other improvement commences within twenty-four (24) months after the date of the approval. Construction or installation of all such improvements shall be completed not later than twelve (12) months immediately after construction or installation is commenced, or shall commence and be completed by such later dates as specified in the Approved Plans. For the purposes of this Section, construction or installation is "commenced" when a building permit has been issued by the Town (or if no building permit is required, when work commences or materials for the improvement are delivered to the applicable portion of the Properties), and construction or installation is "completed" when it has been completed in compliance with Approved Plans or Architectural Guidelines and the Town has issued a certificate of occupancy or completion for the improvement (or if no certificate of occupancy is required, when the improvement has been substantially completed as determined by the Architectural Review Committee). The Architectural Review Committee, in its sole discretion, may grant waivers or extensions of the foregoing time period for completion of construction or installation of improvements, and, when requested and upon reasonable evidence of the existence thereof, shall grant reasonable waivers or extensions for events of Force Majeure that delay or prevent a Person from completing construction or installation within the foregoing time periods. Each Owner is responsible for diligently pursuing completion of improvements.

Section 11.05 Compensation. No member of the Architectural Review Committee shall be compensated for service as a member of the Architectural Review Committee. However, the Association may reimburse members of the Architectural Review Committee for reasonable out-of-pocket expenses incurred in serving on the Architectural Review Committee.

Section 11.06 Limitation of Liability. Neither the Architectural Review Committee nor the members thereof, nor Declarant, nor the Association, nor any shareholders, directors, officers, partners, members, managers, agents or employees of Declarant or the Association, shall be liable in damages or otherwise to any Person by reason of: (i) mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of Plans, or the failure to approve or disapprove any Plans, except where the foregoing results from gross negligence or willful misconduct; or (ii) any failure of Approved Plans to comply with any Legal Requirements, including zoning and building codes; or (iii) any defect in, or lack of structural soundness or integrity of, any improvements constructed, placed, or maintained on any portion of the Properties.

Section 11.07 Violation; Enforcement. Each failure of an Owner or any other Person to construct or maintain any improvement in accordance with the Approved Plans or applicable Architectural Guidelines shall be a violation of the Declaration. Declarant, each Owner and the Association each shall have the right, but not the obligation, to enforce the provisions of this Article against an Owner or any other Person who violates or attempts to violate the same, either to restrain the violation, recover damages, or seek other available legal or equitable remedies. Any failure to enforce this Article of the Declaration or seek any applicable remedy with respect to any specific violation hereof shall not constitute a waiver of the right to do so thereafter, nor shall it constitute a waiver of the right to enforce this Article of the Declaration at any other time with respect to the same or substantially similar matter. All such rights, remedies and privileges granted in this Section are cumulative, and the exercise of any one or more of such rights, remedies or privileges shall not constitute an election of remedies or preclude subsequent exercise of other rights, remedies and privileges.

ARTICLE XII
EASEMENTS AND OTHER RIGHTS

Section 12.01 Exercise of Easement Rights. Each easement described in this Article includes the following rights as reasonably necessary for the full exercise of the easement: vehicular and pedestrian ingress, egress, and regress (together referred to as "access") over other portions of the Properties as reasonably necessary to go to and from the easement area (the "easement area" being defined as the portion of the Properties subject to the easement) and to transport equipment and materials to and from the easement area; the right to maintain equipment, structures, facilities and soil and water impoundments in the easement area; the right to remove any obstruction within the easement area that constitutes interference with the use of the easement or with the maintenance of any equipment or structures or facilities or soil or water impoundments located therein; and the right to use as temporary work space such portions of the Properties immediately adjacent to and outside of the easement areas as may be reasonably necessary for the full exercise of such easements, including the temporary storage of materials. Provided, with respect to any portion of the Properties outside of the applicable easement area damaged as a result of the exercise of such access or temporary work space rights, the Person who exercises the access or temporary work space rights, as soon as practicable after completion of the work (and during the performance of the work if such restoration is necessary to prevent injury or death to any Person or damage to any other property), shall restore all such portions of the Properties to substantially the same condition as they were in immediately prior to the occurrence of the damage.

The easements established in this Article may be exercised in the discretion of the Declarant, the Association, or other Person for whom they are established, but this Article does not impose any obligation on the Declarant, the Association, or other Person to exercise any such easements or rights. Except in an emergency, all easements described in this Article shall be exercised in a reasonable manner and at reasonable times.

Section 12.02 Easements Reserved by Declarant. Declarant, for itself, and its successors and assigns (which may include the Association, the Town and public utility providers), reserves the following easements and rights in, over, under, across and through the Properties, which may be exercised by Declarant or its successors or assigns in its sole discretion, in whole or in part, without any obligation to exercise any of same. These easements specifically include the

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

(a) The right to grant perpetual, exclusive or non-exclusive, and alienable easements for development, as determined by Declarant, of the Properties, or any real property adjoining any part of the Properties, including development required by any Legal Requirement or contractual obligation of Declarant, including the exercise of any right reserved by or granted to the Declarant under the Governing Documents, and including the maintenance of streets (both publicly dedicated and private streets), water, sanitary sewer and other utilities and related appurtenances and equipment, soil and water impoundments, and Stormwater Control Measures, including wires, poles, lines, pipes, conduits, meters, equipment, structures, and facilities related thereto, in, over, under, across, and through all of the following: (i) easement areas that have been identified as easements on plats or in documents that have been executed by the Declarant or other Owner of such portions of the Properties and recorded in the Registry; (ii) all streets in the Properties, including both publicly dedicated and private streets; (iii) an area on each Lot that is five (5) feet in width and adjacent to each side boundary line thereof (except for the portions of Lots on which common party walls are located), an area ten (10) feet in width adjacent to each side boundary line of a Lot that does not adjoin another Lot or Common Elements, and an area on each Lot that is ten (10) feet in width adjacent to each front and rear boundary line thereof; and (iv) the Common Elements. Provided, however, neither the foregoing reservation of easement rights nor any similar reservation of easement rights contained in the Declaration shall create or impose any obligation upon Declarant, or its successors and assigns, to provide or maintain any such street, wire, pole, line, pipe, conduit, meter, equipment, structure, facilities, or soil and water impoundment or other Stormwater Control Measure. Declarant's rights under this Section include the right to assign its rights under the easements and/or to grant easements to other Persons in, over, under, across and through those portions of the Properties described in this sub-section.

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

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

(d) A perpetual, non-exclusive, and alienable easement to maintain all vegetation required or allowed under any planting, landscaping, or replanting plan required or approved for any part or all of the Properties pursuant to Legal Requirements.

Section 12.03 Agreements With Other Persons. In connection with its exercise of any easements or rights reserved in this Article, Declarant reserves the additional right, which may be exercised by Declarant or its successors or assigns in its sole discretion, in whole or in part, without any obligation to exercise such right, to enter into agreements on behalf of and binding on the Association with other Persons (including other associations of property owners) for any one or more of

the following: (i) use and maintenance of any easements and associated improvements and facilities therein located in the Properties or in the properties owned or used by such other Persons, which agreements may provide for financial and/or management responsibilities for the Association and/or for such Persons; and (ii) use and maintenance of Stormwater Control Facilities in the Properties and/or on the properties owned or used by such Persons.

Section 12.04 Easements Reserved for the Association. Easements are reserved for the Association as follows, which may be exercised by the Association in its sole discretion, without any obligation to exercise any of same. These easements specifically include the right to connect to and use and maintain new and existing wires, poles, lines, pipes, conduits, meters, equipment, structures, facilities, and soil and water impoundments and other Stormwater Control Measures in the Properties, without payment of any charge or fee to any Owner of any part or all of the Properties:

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

(b) In addition to the foregoing, and in order to implement effective and adequate soil erosion controls and/or stormwater management, a perpetual, non-exclusive easement to enter upon any portion of the Properties, before and after improvements have been constructed or placed thereon, to maintain or cause to be maintained soil erosion control and/or stormwater management; provided, however, the Association shall not at any time be required to exercise this easement, and no exercise of the easement shall interfere unreasonably with any permanent improvements constructed on any such portion of the Properties (which improvements have been approved by the Architectural Review Committee as required herein). If the need for stormwater management or soil erosion controls results from the construction of improvements on any portion of the Properties or any excavation, grading, removal, reduction, addition or clearing of any portion of the Properties, unless such activities are performed by a governmental entity or utility provider the cost of any such work performed by the Association for the purpose of implementing effective and adequate stormwater management or soil erosion control shall be assessed as a special individual assessment against the Owner, as determined by the Association, whose actions (including the actions of such Owner's contractors, subcontractors, and agents) caused the situation that was addressed by the work performed by the Association. Provided, however, if the Association determines that appropriate corrective action is necessary on any portion of the Properties, prior to exercising this easement the Association shall give the responsible Owner, as determined by the Association, written notice of the proposed corrective action and a reasonable opportunity to take the corrective action specified in such notice. If such Owner fails to complete the corrective action by the date specified in the notice, the Association then may exercise this easement, take the necessary action, and assess the special individual assessment against the Owner.

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

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

Section 12.05 Easement Reserved for the City and Public Utilities. Perpetual, non-exclusive and alienable easements are hereby reserved and established over all portions of the Properties for the Town and for all public utility providers serving the Properties, and their agents, employees and contractors, for the purposes, as applicable to the Town or utility provider, of setting, removing and reading utility meters, maintaining Stormwater Control Measures, maintaining utility equipment, facilities and connections, and acting for other purposes consistent with the public safety and welfare, including garbage removal, police protection, fire protection (including access to any and all fire hydrants located outside

of public street rights of way or easements dedicated to the Town) and delivery of mail. Any pedestrian access easement established by Declarant or the Association over any portion of the Properties for the purpose of providing pedestrian access to and from Town greenways or Town greenway easements are established for the benefit of the Town and the public in general, and the Association has the responsibility with respect to such pedestrian access easements that the Code or other Legal Requirements impose on owners of properties over which such pedestrian access easements are located and on property owner associations that serve properties over which such pedestrian access easements are located.

Section 12.06 Easements Shown On Recorded Plats. Declarant, for itself and its successors and assigns (which may include the Association, the Town, and public utility providers), and in addition to all other easements reserved in the Declaration, hereby reserves perpetual, non-exclusive and alienable easements in the locations and for the purposes shown and indicated on all plats of the Properties recorded in the Registry. These easements specifically include the right to maintain in the easement areas identified on such plats all improvements deemed necessary, in the reasonable discretion of the Person who exercises the easement rights, for the full exercise of such easements.

Section 12.07 Easement For Structural Support. Every portion of a Townhouse which contributes to the structural support of the building in which the Townhouse is located shall be burdened with an easement of structural support for the benefit of all other Townhouses within that building.

Section 12.08 Easement And Right Of Entry. Each Owner of a Lot shall have shall have a perpetual access easement over the adjoining Lots and/or the Common Elements to the extent reasonably necessary to maintain the Townhouse on such Owner's Lot. Such maintenance shall be done expeditiously, in good and workmanlike manner and in compliance with all Legal Requirements, and upon completion of the work, the Owner shall restore all adjoining Lot(s) and Common Elements damaged as a result of the maintenance to substantially the same or better condition as it was in immediately prior to the occurrence of the damage.

Section 12.09 Restriction on Entry. Notwithstanding anything to the contrary contained in this Article, no right or easement granted, reserved or established in the Declaration shall be construed to give Declarant, the Association, an Owner, the Town or any other Person the right to enter any Dwelling or other building located on any portion of the Properties, except as otherwise specifically stated in the provision of the Declaration relating to the particular right or easement or as reasonably and necessarily implied in order for the right or easement to be exercised (for example, maintenance of a party wall), or as allowed by the Owner of the applicable portion of the Properties. Provided, however, each Owner hereby is given notice that Legal Requirements may allow such entry by the Town or other Persons, even though the particular easement granted, reserved or established in the Declaration does not allow such entry.

ARTICLE XIII
OWNER MAINTENANCE RESPONSIBILITIES

Section 13.01 Duty to Maintain. Except for those items for which the Association has maintenance responsibility under the Governing Documents, each Owner, at such Owner's sole cost and expense, at all times shall maintain such Owner's Lot, including all improvements thereon, in a safe, clean and attractive condition, and in a good state of repair, subject to and in a manner consistent with the Governing Documents and Community Wide Standard, including all of the following:

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

(b) Maintenance of exterior lighting and mechanical facilities.

(c) Maintenance of parking areas and driveways.

(d) Complying with all Legal Requirements.

(e) Maintenance of Stormwater Control Measures as required by the Declaration, the City Ordinance and the Stormwater Agreement.

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

Section 13.02 Enforcement. If any Owner fails to perform any of the foregoing maintenance responsibilities, then the Association may give such Owner written notice of the failure and such Owner must, within thirty (30) days after such notice is given by the Association, perform the required maintenance or commence performing the required maintenance. All such maintenance shall be pursued diligently and completed within a reasonable time after it is commenced. If any such Owner fails to perform or commence performing the required maintenance within the allotted time period, then the Association, acting through its authorized agent or agents, shall have the right and power, but not the obligation, to enter such Owner's Lot and perform such maintenance without any liability for damages for wrongful entry or trespass. Such Owner shall be liable to the Association for the expenses incurred by the Association in performing the required maintenance, and shall reimburse the Association for such expenses within thirty (30) days after the Association mails or delivers to such Person an invoice therefor. If any Owner fails to reimburse the Association as required, the Association may impose a special individual assessment against the Owner and such Owner's Lot for the amount owed and the Association shall have the same rights and remedies against such Owner and such Owner's Lot as the Association has with respect to the enforcement and collection of assessments. Notwithstanding the foregoing, if maintenance is required as a result of an emergency situation (as determined by the Board), notice to an Owner to perform the required maintenance shall be such notice as is reasonable under the circumstances (which may include no notice at all).

Section 13.03 Unimproved Portions of the Properties. Notwithstanding the foregoing provisions of this Article, but subject to the other applicable provisions of the Declaration, Owners of unimproved Lots or other unimproved portions of the Properties shall be required to maintain the same only in accordance with such maintenance standards, if any, as are established by the Declarant, during the Development Period, and thereafter, in accordance with such reasonable maintenance standards established by the Board.

ARTICLE XIV
INSTITUTIONAL LENDERS; MORTGAGEES

Section 14.01 Notice to Board. Upon request from the Board, any Owner who mortgages such Owner's Lot shall notify the Association of the name and address of the Mortgagee. No Institutional Lender shall be entitled to any rights under the Declaration unless it has notified the Association as required in this Article and has requested Institutional Lender rights under the Declaration.

Section 14.02 Requirements of Institutional Lender. Whenever any Institutional Lender desires to avail itself of the rights afforded Institutional Lenders under the Governing Documents, it shall furnish written notice thereof to the Association by certified or registered mail, or by overnight delivery service, identifying the Lot upon which such Institutional Lender holds a first lien mortgage or deed of trust, specifying which rights it wishes to exercise, specifying notices or other information it wishes to receive, and designating the name of the person and mailing address to which notices, reports or information are to be sent by the Association. The Institutional Lender shall be responsible for updating the information required by this Section, and the Association is obligated to give the required notices only to the most current name and address it has received from the Institutional Lender. Such notice shall be deemed to have been

received by the Association only upon actual delivery thereof, as evidenced by the return registry receipt or records of the overnight delivery service.

Upon payment in full of the indebtedness secured by the lien of the mortgage subject to the notice given to the Association by the Institutional Lender, the Institutional Lender promptly shall notify the Association that it no longer wishes to exercise the rights requested in the previously given written notice, such new notice to be given in the same manner as the previously given notice.

Section 14.03 Obligation of Association to Institutional Lenders. From and after giving the required notice to the Association and continuing as long as the Institutional Lender is the holder of the indebtedness secured by the mortgage on the applicable Lot, such Institutional Lender shall have each of the following rights that are specifically requested in the notice to the Association:

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

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

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

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

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

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

(g) With respect to the Lot that secures its mortgage, to be notified of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days), and to be notified of any other default of the provisions of the Declaration by the Owner of such Lot. Provided, however, any failure of the Association to notify the Institutional Lender of the delinquency or default shall not affect the validity of any Association lien, or any other Association rights and remedies, against the defaulting Owner or such Owner's Lot.

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

Section 14.04 Institutional Lenders Not Obligated to Collect Assessments. No Institutional Lender shall have any obligation to collect any assessment under the Declaration.

ARTICLE XV
AMENDMENT OF DECLARATION

Section 15.01 Amendment by Declarant. In addition to specific amendment rights, if any, granted or reserved elsewhere in the Declaration, during the Development Period Declarant may unilaterally, and in its sole discretion, without the joinder or approval of the Association, any Member, or any other Person and without the necessity of a meeting of the Association, amend the Declaration for any purpose, and may record any such amendment or may record an amended and restated version of the Declaration that incorporates any such amendment. Any amendment to the Declaration adopted by the Declarant shall be effective upon the later of the effective date contained therein or the date of its recording in the Registry.

Section 15.02 Amendment by the Members. Unless amended as allowed under Section 1 of this Article, the Declaration may be amended only as follows:

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

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

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

Section 15.03 Consent of Mortgagees. No consent of any Mortgagee to any amendment of the Declaration is required with respect to any amendment by the Declarant pursuant to the unilateral right of Declarant to amend the Declaration during the Development Period. No consent of any Mortgagee to any amendment of the Declaration by the Members is required unless (i) the amendment adversely affects the rights of Mortgagees under the Declaration, or (ii) a Legal Requirement requires the consent of Mortgagees or a percentage of Mortgagees, or (iii) the mortgage held by such Mortgagee specifically requires the Mortgagee's consent with respect to the portion of the Properties subject to the mortgage, and if either (ii) or (iii) is applicable, the Mortgagee has notified the Association of its rights regarding consent to amendments in the same manner required for an Institutional Lender to notify the Association in the Article of the Declaration dealing with Institutional Lenders. Provided, however, if the amendment is adopted by the required percentage of Members exclusive of the Member or Members who own portions of the Properties for which consent of a

Mortgagee is required under this Section, then the amendment is valid whether or not the necessary Mortgagees have consented to the amendment.

Section 15.04 Prohibited Effects of Amendment. No amendment to the Declaration shall do or result in any of the following:

(a) increase the financial obligations of an Owner in a discriminatory manner.

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

(c) diminish, impair, or in any way affect the rights or protections of Declarant under this Declaration without the written consent of Declarant.

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

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

(f) terminate or revise any easement established by the Declaration, without the written consent of the Person benefitted by the easement.

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

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

ARTICLE XVI
DURATION OF DECLARATION; DISSOLUTION OF ASSOCIATION

Section 16.01 Duration. Unless sooner terminated as required by Legal Requirements, the Declaration shall run with and bind the Properties and each Owner, and shall inure to the benefit of the Association and each Owner of any portion of the Properties, and their respective heirs, successors, and assigns, from and after the recording of the Declaration in the Registry until such time as it is terminated by a written termination agreement, executed or ratified in the same manner as a deed, by those Members to whom eighty percent (80%) or more of the total number of votes in the Association are allocated, and also with the written consent of Declarant during the Development Period. Execution or ratification by any one of multiple Owners of a Lot is sufficient for that Lot unless, prior to the time the termination agreement is recorded in the Registry, any other Owner of that Lot files with the Association a written objection to the termination of the Declaration (in which event the vote allocated to that Lot shall be considered as not having been exercised). The termination agreement shall specify a date after which it will be void unless it is recorded in the Registry before that date. The termination agreement may not be recorded in the Registry unless and until the requisite number of signatures have been obtained as provided herein, and it shall be effective only upon recording. If, pursuant to the termination agreement, any real estate in the Properties is to be sold following termination of the Declaration, the minimum terms of the sale shall be set forth therein.

Section 16.02 Dissolution of the Association. The Association shall be dissolved upon the termination of the Declaration. Provided, however, until any sale of the Common Elements authorized by the termination agreement or approved by at least eighty percent (80%) of the Owners in the same manner as required for approval of the termination agreement is completed and the sale proceeds distributed, the Association shall continue in existence with all of the powers it had before termination. The Association, on behalf of the Owners, may contract for the sale of the Common Elements, but the contract is not binding unless such sale has been authorized in the termination agreement or it has been approved by the Owners in the same manner as required for approval of the termination agreement. Subject to the right of first offer by the Town of Wake Forest, proceeds of the sale of Common Elements shall be distributed to the Owners and lienholders as their interests may appear, as provided in the termination agreement or other agreement approved by the Owners in the same manner as required for approval of the termination agreement. If the Common Elements are not to be sold following termination of the Declaration, title to the Common Elements vests in the Owners upon termination, as tenants in common in proportion to their respective interests as provided in the termination agreement. Assets of the Association other than Common Elements may be liquidated in accordance with Legal Requirements.

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

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

ARTICLE XVII
DISCLOSURES AND WAIVERS

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

Section 17.01 Construction Activities. All Owners and other Persons who use the Properties are notified that Declarant, Builders, the Association, governmental entities, utility providers, and other Persons, and their respective agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, may, conduct "construction activities" (including clearing, grading, excavation, and other activities in or near the Properties in connection with construction and maintenance of improvements in or near the Properties. By the acceptance of a deed or other conveyance or mortgage, leasehold, license, or other interest, and by using any portion of a Lot or the Properties generally, such Owners and such other Persons acknowledge, stipulate, and agree: (i) such construction activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or Legal Requirements; (ii) not to enter upon, or allow their children or other Persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise) any property within or in proximity to the portion of the Properties where such construction activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours); and (iii) that any purchase or use of any portion of the Properties has been and will be made with full knowledge of the foregoing. To the extent that this Declaration has the authority to control such construction activities (which it may not in the case of construction activities performed by any one or more of a governmental entity or a utility provider), except in the event of an emergency, or as otherwise allowed by the Declarant, during the Development Period, and thereafter, by the Board, construction activities within the Properties shall be conducted at reasonable times.

Section 17.02 Conveyance of Common Elements. Declarant may convey or transfer all Common Elements and other assets, including all improvements thereon, to the Association in an "AS IS, WHERE IS" condition. Declarant hereby disclaims and makes no representations, warranties or other agreements, express or implied, by law or fact, with respect to such Common Elements and other assets, including all improvements thereon, including, without limitation, representations or warranties of merchantability regarding the condition, construction, accuracy, completeness, design, adequacy of size or capacity thereof in relation to the utilization, date of completion, or the future economic performance or operations of, or the materials, furniture, or equipment used therein. Neither the Association nor any Owner or any other Person shall make any claim against Declarant, its successors and assigns, relating to the condition, operation, use, accuracy or completeness of the Common Elements or other assets, or for incidental or consequential damages arising therefrom.

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

Section 17.03 Liability for Association Operations. The Association shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Declarant, its successors and assigns, and its shareholders, directors, officers, partners, members, managers, agents and employees from and against any and all losses, claims, demands, damages, costs, and expenses of whatever kind or nature (including, without limitation, reasonable attorneys' fees and costs at all tribunal levels and whether or not suit is instituted, including those incurred in establishing the right to be indemnified, defended, and held harmless pursuant hereto), which relate to or arise out of Association management and operations, including, without limitation, improvement, maintenance, and operation of Common Elements and the collection of assessments.

Section 17.04 Public Facilities and Services. Each Owner hereby is notified that certain facilities and areas within or adjoining the Properties may be open for use and/or enjoyment of the public and/or Persons other than Owners. Such facilities and areas may include, by way of example: greenways, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, streets, sidewalks, and medians.

Section 17.05 Safety and Security. Each Owner and occupant of a Dwelling, and their respective guests and invitees, tenants, and guest and invitees of tenants, shall be responsible for their own personal safety and the security of their property in the Properties. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to enhance the level of safety or security which each Person provides for himself or herself and his or her property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within the Properties, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing such Owner's tenants and all occupants of its Dwelling that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within the Properties assumes all risks of personal injury and loss or damage to property, including Dwellings and the contents of Dwellings, resulting from acts of third parties.

Section 17.06 View Impairment. Neither Declarant nor the Association guarantee or represent that any view from, over, or across any portion of the Properties will be preserved without impairment or change. Neither Declarant nor the Association shall be obligated to relocate, prune, or thin trees or other landscaping, or to install or maintain any landscaping or screening, except as otherwise required under Legal Requirements or a separate covenant or agreement, if any. The Association has the right to add or remove trees and other landscaping to and from the Common Elements, subject to Legal Requirements. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

ARTICLE XVIII
ALTERNATIVE DISPUTE RESOLUTION

Section 18.01 Agreement to Encourage Resolution of Disputes Without Litigation.

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

As used in this Article, except as otherwise provided herein, the term "Claim" shall refer to any claim, cause of action, grievance, or dispute arising out of or relating to any of the following:

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

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

(c) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party or any failure of a Bound Party to make disclosures of known facts to any other Bound Party; or

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

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

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

(f) any action to enforce any financial or monetary obligation of any Person under the Governing Documents;

(g) any action by the Declarant or the Association to obtain a temporary restraining order or other emergency equitable relief and such ancillary relief as the court may deem necessary in order to maintain the status quo and/or to preserve the Declarant's or the Association's ability to enforce the provisions the Declaration relating to any one or more of the following: exercise of Special Declarant Rights; architectural review and approval; use restrictions; maintenance of the Properties; or creation and maintenance of the Community Wide Standard;

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

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

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

Section 18.02 Dispute Resolution Procedures.

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

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

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

iii. the Claimant's proposed resolution or remedy; and

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

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

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

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

i. If a Claim is submitted to mediation and is not settled within 30 days after submission of the Claim to mediation, or within such longer time, not to exceed 90 days after submission of the Claim to mediation, as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. Any Bound Party thereafter shall be entitled to file an action with respect to the Claim.

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

(d) Right to File Action. Notwithstanding anything to the contrary herein, a Bound Party may file an action with respect to any matter subject to a pending negotiation or a pending mediation, if the applicable statute of limitations or statute of repose would expire within 90 days or less of the date of the filing of the action.

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

ARTICLE XIX
COMMON PARTY WALLS

Section 19.01 Party Wall Rules. All common party walls between Townhouses shall conform to the requirements of the North Carolina State Building Code. The following rules also apply to common party walls between Townhouses:

(a) Each wall which is shared by Townhouses and placed on (or substantially on) the dividing line between the Townhouses shall constitute a common party wall and, to the extent not inconsistent with the provisions of this Article or the North Carolina State Building Code, the general rules of law regarding common party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) The cost of reasonable maintenance of a common party wall shall be shared by the Owners of the Townhouses that share the common party wall, in proportion to such use. Provided, however, each Owner is responsible for usual and routine maintenance (for example, painting) of the portion of any party wall on the inside of such Owner's Townhouse.

(c) If a common party wall is destroyed or damaged by fire or other casualty, any Owner of a Townhouse which shares such common party wall may restore or repair it, and the Owners of the other Townhouses which share the restored or repaired common party wall shall, within twenty-one (21) days of the receipt of a request for payment and invoices showing the cost of such restoration or repair, contribute to the cost of the restoration or repair thereof (or reimburse the Owner who has paid such costs) in proportion to their use of the common party wall, without prejudice, however, to the right of any such Owner to demand a larger contribution from the other Owners under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Notwithstanding any other provision of this Section, an Owner of a Townhouse which shares a common party wall who, by such Owner's negligent or willful act or omission, damages or causes the common party wall to be exposed to the elements shall bear the entire cost of the necessary repair or restoration.

(e) The right of any Owner to contribution from any other Owner under this Article with respect to all matters occurring prior to the transfer of title of the Lot on which a Townhouse is located to a subsequent Owner may be retained by the transferring Owner to the extent that the transferring Owner paid any expenses for which contribution is available; otherwise, the right of contribution shall be transferred to the subsequent Owner. The amount owed shall constitute the personal debt of the Owner from whom it is owed, and the Owner to whom the contribution is owed shall have all remedies available at law or in equity to enforce such Owner's right of contribution. An Owner's obligation for contribution is appurtenant to and shall run with title to such Owner's Lot.

(f) An Owner who desires to sell a Townhouse, or the prospective purchaser of such Townhouse, may request the Owners of the other Townhouse(s) which shares that common party wall to provide a certificate stating whether or not such certifying Owner has any right or obligation of contribution with respect to such common party wall against the Owner who desires to sell. Each certifying Owner from whom such certificate is requested, shall, within ten (10) days after receipt of a written request for certification, furnish same to the requesting Owner or purchaser, as applicable, either confirming that no right of contribution exists or stating the amount of and reasons for the contribution claimed against the requesting Owner. A certificate signed by any one or more of the Owners of a Townhouse which shares a common party wall with the Townhouse of the requesting Owner shall be conclusive evidence of its contents with respect to all other Owners of that Townhouse and with respect to third parties.

(g) Each Owner of a Townhouse which shares a common party wall with one or more other Townhouses, and such Owner's contractors and subcontractors, shall have an easement and right of entry upon such other Townhouses to the extent reasonably necessary to repair, restore, maintain or reconstruct the common party wall. Such repair, restoration, maintenance or reconstruction shall be done expeditiously and, promptly upon completion of the work, the Owner on whose behalf the work is being done shall restore all portions of the adjoining Townhouses damaged as a result thereof to substantially the same condition as that which existed at the time the work commenced.

ARTICLE XX
GENERAL PROVISIONS

Section 20.01 Enforcement. The Declarant, the Association, each Owner, and, when enforcement rights are granted by the Declaration, an Institutional Lender or other Secondary Mortgage Market Agency, shall have the right, but not the obligation, to enforce the Declaration by any proceeding at law or in equity (or otherwise, as provided in the Declaration) against any Person who has violated, is violating, or is attempting to violate, any part of the Declaration, either to restrain the violation, recover damages, or seek other available legal or equitable remedies. Any failure by the Declarant, the Association, an Owner, or any other Person to enforce the Declaration or seek any applicable remedy with respect to any specific violation or lien shall not constitute a waiver of the right to do so thereafter, nor shall it constitute a waiver of the right to enforce the Declaration at any other time with respect to the same or substantially similar matter. All rights,

remedies and privileges granted to the Declarant, the Association, any Owner, or any other Person herein are cumulative, and the exercise of any one or more of such rights, remedies or privileges shall not constitute an election of remedies or preclude subsequent exercise of other rights, remedies and privileges.

Section 20.02 Severability of Provisions. If any paragraph, section, sentence, clause or phrase of the Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent and final jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses and phrases of the Declaration shall continue in full force and effect and shall not be affected thereby. To the extent that any provision of the Governing Documents is determined to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision without destroying its intent, then the narrower or partially enforceable provision shall be applied and, to the extent lawful, shall be enforced. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 20.03 Notice. Except as otherwise provided herein, whenever written notice to any Person (including Owners and Members) is required hereunder, such notice may be hand delivered to such Person, or given by first class United States mail, postage prepaid, or given in such other manner specifically allowed or required by Legal Requirements, or given in such other manner determined by the Board to be proper and which does not violate any Legal Requirements, addressed to the address of such Person appearing on the records of the Association or to the address for such Person appearing in the records of the Wake County Revenue Department. Properly addressed notice shall be deemed to have been given by the Association as follows: (i) in the absence of any delays in delivery by the United States Postal Service resulting from acts of war or terrorism, on the third day following the date the notice was deposited in the United States mail, first class postage prepaid; or (ii) on the date of personal delivery to the Person or an adult residing with the Person, as evidenced by a receipt signed by the Person or such other Person; or (iii) on the delivery date indicated on a return certified or registered mail receipt, or (iv) on the date indicated by the records of a national, regional or local same day or overnight courier service, or (v) on the date acknowledged in writing by the recipient Person or other adult residing with such Person, or (vi) upon execution of a written waiver of such notice by the Person. Notice to the Association may be given and shall be deemed to have been given in the same manner as notice to a Person, when addressed to the principal business office of the Association or the property manager employed by the Association. It shall be the duty of each Owner and Member to keep the Association informed of such Owner's or Member's current mailing address and telephone number. If an Owner or Member has not provided the Association with such current mailing address the Association may use as the mailing address the street address of the Lot owned by such Owner or Member or the address for such Owner or Member in the records of the Wake County Revenue Department. If no address for an Owner or Member is reasonably available to the Association, the Association shall not be required to give notice to such Owner or Member. Notice given to any one of multiple Owners of any portion of the Properties shall be deemed to have been given to all of such Owners.

Section 20.04 Titles. The titles, headings and captions which have been used throughout the Declaration are for convenience only and are not to be used in construing the Declaration or any part thereof, except as necessary with respect to any cross-referencing of any provisions of the Declaration.

Section 20.05 Number and Gender. Whenever the context of the Declaration requires, the singular shall include the plural and one gender shall include all.

Section 20.06 No Exemption. No Owner may become exempt from any obligations imposed hereby by non-use or abandonment of the Common Elements or any Lot owned by such Owner.

Section 20.07 Consent. Except as otherwise may be specifically required by the Governing Documents or Legal Requirements, where the consent of the Owner of a Lot is necessary, and such Lot is owned by more than one Person, the consent of any one of such Owners is sufficient.

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

Section 20.08 Subdivision, Combination of Lots; Plat Re-recording. A Lot may be subdivided, and the boundaries of a Lot may be altered, only with the written consent of the Owner thereof and the Declarant, during the Development Period (and, thereafter, the Board), and with any prior approval required of the Town. Provided, however, and notwithstanding the foregoing sentence, such written consent of the Declarant is not required for leases, deeds of correction, deeds to resolve boundary line disputes or similar corrective instruments, or deeds or other instruments granting any easement, right-of-way or license to Declarant, the Association, the Town or a public utility provider, provided that the number of then existing Lots in the Properties is not changed by any such action.

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

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

Section 20.09 No Timesharing. No Dwelling shall be used for operation of a timesharing, fraction-sharing, or similar program whereby the right to use or occupancy of the Dwelling rotates among participants in the program on a fixed or floating time schedule over any period of time.

Section 20.10 Rights to Use Name of Subdivision. During the Development Period, no Person shall use the name "Retreat at Renaissance" or any derivative of such name in any logo or depiction in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Retreat at Renaissance" in printed or promotional matter where such term is used solely to specify that a particular Lot or Proposed Lot is located within the Subdivision and the Association shall be entitled to use the words "Retreat at Renaissance" in its name.

Section 20.11 Association Contracts and Leases During Declarant Control Period. All Association contracts and leases which affect or relate to the Properties or any part thereof and which (i) are entered into prior to the time that the first Board elected by the Members takes office, and (ii) are not bona fide or were unconscionable to the Owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the Association at any time after the first Board elected by the Members takes office, upon not less than ninety (90) days written notice to the other parties to the contract or lease (or any different minimum time period provided for in the Act), and all such contracts and leases are terminable as provided in this Section, whether or not the right of the Association to terminate is stated therein.

Section 20.12 Conflicts. Whenever there exists a conflict among the Governing Documents of the Association, the provisions of the Declaration and thereafter, any applicable Supplemental Declaration or Subdivision Declaration shall control; (i) except should any of the terms, conditions, provisions, paragraphs, or clauses of the Declaration conflict with any provisions of the Brownfields Agreement, the provisions of the Brownfields Agreement shall control unless such document permits the Declaration to override the Brownfields Agreement in which event the Declaration shall control, and (ii) except as to matters of compliance with the Nonprofit Corporation Act, in which event the Articles shall control. Whenever there is a conflict between the provisions of the Articles and Bylaws, the provisions of the Articles shall control. The provisions of the Bylaws shall control over any conflicting provision of any Restrictions and Rules, Board resolutions, or Architectural Guidelines. With respect to the foregoing, specific provisions shall control general provisions, except that a construction consistent with the Act, the Nonprofit Corporation Act, the Brownfields Property Reuse Act and Legal Requirements shall in all cases control over any construction inconsistent therewith. The provisions of the Act, the Nonprofit Corporation Act and the Brownfields Property Reuse Act shall in all cases control over any conflicting provisions of the Code. The Governing Documents shall be construed together with the construction that avoids, insofar as possible, conflicts among them.

The provisions of the Code control over any conflicting provisions of the Declaration and any other Governing Documents, with the exception of the Brownfields Agreement. As applicable provisions of the Code are amended, modified, revised, deleted, or moved to different sections, the Declaration is deemed to be amended so as to conform to the current provisions of the Code that are applicable to the Properties or any part thereof.

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

For the purposes of this Article and any other references in the Declaration to conflicts, a 'conflict' is a situation in which the provisions in question cannot be reconciled or where enforcement of one provision necessarily would prohibit enforcement of another provision - for example, where one provision allows a certain action and the other provision prohibits the same action. Two provisions that are different, but not mutually exclusive or prohibitive of each other do not constitute a conflict for the purposes of this Article.

Section 20.13 Assignment. Declarant specifically reserves the right, in Declarant's sole discretion, to assign temporarily or permanently any or all of its rights, privileges, powers and/or obligations under the Declaration or under

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

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

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

During the Development Period the Declarant has the authority to execute the following documents on behalf of and to bind the Association with respect thereto: assignments from Declarant to the Association allowed by the Declaration; agreements with governmental entities allowed by the Declaration.

If Declarant has not assigned all of its rights under the Declaration by the end of the Development Period, all such rights not previously assigned and then possessed by the Declarant shall be deemed to have been assigned to the Association, whether or not an assignment thereof is recorded in the Registry.

Section 20.14 Costs and Reasonable Attorneys' Fees. In any action to enforce the provisions of any Governing Documents, the court may award reasonable attorneys' fees to the prevailing party, even if such action is settled prior to any trial, judgment or appeal. It also is the specific intent of this Section that it constitute the allowance of the award of reasonable attorneys' fees as required under Section 47F-3-120 of the Act.

Section 20.15 Actions Against Declarant. The affirmative vote or consent of the Members that is equal to or greater than sixty-seven percent (67%) of the total number of votes in the Association first shall be required prior to the Association doing any or all of the following with respect to the Declarant or any successor Declarant, regardless of whether such Person is the Declarant at the time the Association takes the action or obtains the necessary vote or consent required to take such action: (i) file a complaint, on account of any act or omission of Declarant, with any governmental entity which has regulatory or judicial authority over the Properties or any part thereof; or (ii) assert a claim or cause of action against Declarant or sue Declarant or request legal or equitable relief against Declarant.

Section 20.16 Rule Against Perpetuities. As provided in Section 47F-2-103(b) of the Act, the rule against perpetuities may not be applied to defeat any provision of the Declaration, or the Bylaws, rules, or regulations adopted pursuant to Section 47F-3-102(1) of the Act. In the event of the absence of the protection of Section 47F-2-103(b) of the Act, if the Declaration or any provision thereof violates any applicable Rule Against Perpetuities, the Declaration or such provisions shall be deemed reformed to continue in effect for the maximum period of time that the Declaration or such provision could exist without violating such applicable Rule Against Perpetuities.

Section 20.17 Reserved Rights. Whenever the Declaration reserves a right for, or requires or authorizes a consent, approval, variance or waiver by, Declarant during the Development Period, and thereafter confers such right upon, or requires or authorizes such approval or waiver by, the Association or Board, the applicable right may be exercised, or the applicable approval or variance or waiver may be given, only by Declarant (or its assigns, which may include the Board) during the applicable period, and, thereafter, only by the Board or its authorized designee (unless a vote or consent of the Members of the Association also is required or alone is required).

Section 20.18 Legal Requirements. All Governing Documents shall be subject to and construed in accordance with all Legal Requirements, including all applicable provisions of the Code. It shall be the responsibility of each Owner to comply with all Legal Requirements, whether or not any approval, disapproval, waiver or variance of the terms of any Governing Documents has been given by Declarant, the Association or the Architectural Review Committee. It is the express intention of the Governing Documents to comply with the Act and the Brownfields Property Reuse Act, and any provisions of the Governing Documents that are not in compliance with the Act or the Brownfields Property Reuse Act shall be deemed reformed to comply therewith. Provided, however, it also is the intention of the Governing Documents that, unless its provisions violate the Act or the Brownfields Property Reuse Act, such provisions shall control, and, insofar as reasonably possible, the provisions of the Governing Documents shall be construed in such manner as to be consistent with, and not in violation of, the Act or the Brownfields Property Reuse Act.

Section 20.19 Marketable Title Act. It is the intention of the Declarant that the Declaration exist and continue until terminated as provided herein, and that it constitute an exception to any automatic termination or expiration provision that might be applicable under the Real Property Marketable Title Act as contained in Chapter 47B of the North Carolina General Statutes, or under any successor or replacement statute or any other Legal Requirement that would or could terminate the Declaration other than in the manner provided for termination herein. Accordingly, the Association, in its discretion, may re-record in the Registry the Declaration or some memorandum or other notice hereof in order to continue the Declaration in full force and effect and/or to qualify the Declaration as an exception to any such automatic termination or expiration provision of the Real Property Marketable Title Act or any other Legal Requirement.

Section 20.20 Effective Date. The Declaration is effective as of the date and time of its recording in the Registry.

ARTICLE XXI
BROWNFIELDS AGREEMENT

Section 21.01 Designation of Brownfields Property. The Properties have been designated as brownfields property and are subject to the Notice of Brownfields Property in accordance with the Brownfields Property Reuse Act. The

Brownfields Agreement is attached as Exhibit A to the Notice of Brownfields Property. The Notice of Brownfields Property and Brownfields Agreement impose certain restrictions and obligations with respect to the use and development of the Subdivision and improvements constructed on the Properties. The Association shall provide to each Owner on or before closing a copy of the Notice of Brownfields Property and the Brownfields Agreement.

(a) Compliance with Brownfields Agreement. The Declarant, the Association, and each Owner shall strictly comply with all property use restrictions and other obligations in the Notice of Brownfields Property and Brownfields Agreement, including, without limitation, any and all land use restrictions. For the purpose of N.C.G.S. §130A-310.35(f), the Association is a party authorized to administer and enforce the land use restrictions for the Properties as it is or will be an Owner of a part of the Properties and is a party eligible for liability protection. The Association is herein authorized to act as the dully authorized agent of the Declarant and the Owners for the administration and enforcement of the Notice of Brownfields Property and the Brownfields Agreement under N.C.G.S. §130A-310.35(f). Any violation of the terms and conditions of the Brownfields Agreement or of the Notice of Brownfields Property by an Owner of any part of the Properties shall be treated as a violation of the Declaration, and the Association is authorized to undertake any and all enforcement remedies provided for in this Declaration for such violations. In the event any Owner violates the terms of the Brownfields Agreement or the Notice of Brownfields Property, the Association shall undertake reasonable enforcement actions to correct said violations. Failure by any Owner to remedy or correct such violations of the Brownfields Agreement and the Notice of Brownfields Property after any applicable notice and cure periods to the reasonable satisfaction of the North Carolina Department of Environmental Quality ("DEQ") could result in such Owner's loss of liability protection afforded by the Brownfields Agreement and the Brownfields Property Reuse Act.

(b) Grant of Access. Neither DEQ nor any party conducting an environmental assessment at Retreat at Renaissance at the direction of, or pursuant to a permit, order or agreement issued or entered into by DEQ, may be denied access to the Subdivision for purposes of conducting such assessment or remediation, which is to be conducted using reasonable efforts to minimize interference with authorized uses of the Properties.

(c) Property Transfers. Any deed or other instrument conveying an interest in the Properties, including any lease, shall contain the following notice in the description section in type no smaller than that used in the body of the instrument:

> **"The property which is the subject of this instrument is subject to the Brownfields Agreement attached as Exhibit A to the Notice of Brownfields Property recorded in the Wake County Registry, Book 16930, Page 1958."**

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as of the day and year first above written.

SM RALEIGH, LLC,
a North Carolina limited liability company

By: _____
George W. Weller, Manager

Wake County, North Carolina

I certify that the following person personally appeared before me this day and acknowledged to me that s/he executed the foregoing document in the capacity indicated: George W. Weller, Manager of SM Raleigh, LLC.

Date: October 10, 2017

(affix seal or stamp here)

DAVID E. MILLER, III NOTARY PUBLIC DURHAM COUNTY, NC

_____
Notary Public
Printed/Typed Name: DAVID E. MILLER, III
My Commission Expires: 07/25/20

EXHIBIT A
PROPERTY DESCRIPTION

BEING ALL of Tract 3, containing 11.134 acres, as shown on that plat entitled "Recombination and Easement Plat of The Retreat at Renaissance, Wake Forest Township, Wake County, North Carolina" recorded in Book of Maps 2014, Page 1256, Wake County Registry.