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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE TOWERS AT MATTIE ROSE

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 THE STATE OF NORTH CAROLINA.

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.

Prepared by and when recorded return to:

Matthew G. St. Amand, Esq.
St. Amand & Efird, PLLC
Lincoln at Belle Grove
3315 Springbank Lane
Charlotte, NC 28226

Submitted electronically by "St. Amand & Efird PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Mecklenburg County Register of Deeds.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR

THE TOWERS AT MATTIE ROSE

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE TOWERS AT MATTIE ROSE ("Declaration") is made on the date of its recordation in the Mecklenburg County Registry by **GRANDFATHER HOMES, INC.,** a North Carolina corporation ("Declarant").

WITNESSETH:

WHEREAS, Declarant owns all of that certain real property described more particularly on Exhibit A (the "Property");

WHEREAS, Declarant desires to provide for the development of the Property (and additional property as may be added thereto pursuant hereto) as a single-family attached townhome residential subdivision (including related common areas);

WHEREAS, Declarant desires to impose certain additional restrictive and protective covenants upon the Property to protect and to promote the beneficial ownership, use and enjoyment of all residential townhome lots and townhomes located within the Property; and

WHEREAS, Declarant has furthermore reserved such rights are described in Article 12 herein or otherwise herein and in the other Project Documents (defined below) to add and/or withdraw real property to/from the Property all subject to the terms of this Declaration.

WHEREAS, this Declaration establishes a planned community under the North Carolina Planned Community Act (N. C. Gen. Stat. Chap. 47F; as amended from time to time, the "Act").

NOW, THEREFORE, the Declarant hereby declares that the Property described above shall be subject to the following reservations, easements, limitations, restrictions, servitudes, covenants, conditions, charges and liens (hereinafter sometimes collectively termed "Covenants and Restrictions") which are for the purpose of protecting the aesthetics, livability and/or desirability (as the case may be) of the Property, and which shall run with the land, and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner of any portion of the Property, subject to the terms hereof.

Declarant desires to impose certain additional restrictive and protective covenants upon the Property to protect and to promote the beneficial ownership, use and enjoyment of all residential townhomes and townhome lots located within the Property and Declarant has, in furtherance of such objectives and those described herein, formed a North Carolina non-profit corporation called The Towers at Mattie Rose Homeowners Association, Inc. (the "Association"), which shall be responsible for the enforcement and performance of certain obligations under this Declaration.

ARTICLE I
DEFINITIONS

Section 1.1. "Act" means and refers to the North Carolina Planned Community Act, Chapter 47F, North Carolina General Statutes, as same may be amended from time to time.

Section 1.2. "Architectural Committee" means the committee established by the Board pursuant to Section 3.4 of this Declaration.

Section 1.3. "Architectural Committee Rules" means the rules if any adopted by the Architectural Committee as such rules may be amended from time to time.

Section 1.4. "Articles" means the Articles of Incorporation of the Association which have been filed in the Office of the Corporation Commission of the State of North Carolina, as said Articles may be amended from time to time.

Section 1.5. "Assessment Lien" means the lien granted to the Association by this Declaration and codified by the Act to secure the payment of Assessments and all other amounts payable to the Association under the Project Documents.

Section 1.6. "Assessments" means the annual, special and/or individual assessments levied and assessed against each Lot pursuant to Article IV of the Declaration.

Section 1.7. "Association" means The Towers at Mattie Rose Homeowners Association, Inc., a North Carolina nonprofit corporation organized to administer and enforce the Project Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns.

Section 1.8. "Association Rules" means the rules and regulations, if any, adopted by the Association, as the same may be amended from time to time.

Section 1.9. "Board" means the Board of Directors of the Association.

Section 1.10. "Builder" means a person or entity in the business of, or a person or entity which has an affiliate in the business of, constructing and selling homes or in the business of acting as a land banker that sells lots to persons or entities who construct and sell homes, which purchases a Lot or Lots without Residential Units constructed thereon for the purpose of constructing Residential Units thereon and selling such Lots and Residential Units.

Section 1.11. "Bylaws" means the bylaws (or by-laws) of the Association, as such bylaws may be amended from time to time.

Section 1.12. "County" means Mecklenburg County, North Carolina.

Section 1.13. "Common Area" means all real property owned by the Association, or held in trust for the benefit of the Association, or any real or personal property that the Association owns, leases or holds possessory use rights in whether now or in the future for the benefit of the Members, including, without limitation, all Stormwater Facilities that serve more

than one Lot and are not maintained by any governmental authority and all retaining walls on the Property, but such definition shall not preclude the Association from operating, maintaining or repairing any other real property for the benefit of the Members of the Association (e.g. public street rights of way and landscaping in public street rights of way and landscaping on Lots as provided herein) or any other real property maintained by the Association pursuant to a written agreement entered into by the Association for the benefit of the Members or pursuant to a written agreement entered into by Declarant that is assigned to and assumed by the Association for the benefit of the Members. The Common Area shall include all real property designated as such or a similar designation on the Plats of the Property and any real or personal property hereinafter designated as Common Area by Declarant or the Association in a written document recorded in the office of the register of deeds (including portions of the Property so designated that are still owned by Declarant). The Association shall be responsible for the repair, maintenance and repaving of the public street rights of way as shown on the Plats until such time as said streets are accepted for public maintenance (streets and facilities located therein being deemed Common Area until such time as they are accepted for maintenance by the applicable authorities); provided, however, at such time as an Owner acquires its Lot for use as a residence, such Owner shall be responsible for the maintenance of the shoulders of the streets located within the right-of-way fronting its Lot.

Section 1.14. "Common Expenses" means expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves.

Section 1.15. "Declarant" means Grandfather Homes, Inc., and its successors and assigns, and any assignee of Declarant's rights, if any. A Declarant may assign its rights in whole or in part by express recorded instrument to a subsequent Owner of all or part of the Property; said instrument to be signed by assignor and assignee). At any time when there is more than one Declarant, except as otherwise expressly provided in this Declaration, any approval or other action required or permitted by the "Declarant" under this Declaration shall require the written consent of the Declarants owning a majority of all Lots then owned by all Declarants.

Section 1.16. "Declaration" means the provisions of this document and any amendments hereto.

Section 1.17. Intentionally Omitted.

Section 1.18. "First Mortgage" means any mortgage, deed of trust, or contract for deed on a Lot which has priority over all other mortgages, deeds of trust and contracts for deed on the same Lot. A contract for deed is a recorded agreement whereby the purchaser of a Lot acquires possession of the Lot but does not acquire legal title to the Lot until a deferred portion of the purchase price for the Lot has been paid to the seller.

Section 1.19. "First Mortgagee" means the holder of any First Mortgage.

Section 1.20. "Improvement" means buildings, roads, residences, driveways, parking areas, fences, walls, rocks, hedges, plantings, equipment, structures, recreational amenities and/or fixtures, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind.

Section 1.21. "Lot" or "lot" means any Lot shown on a Plat (Common Area designated on a plat and owned by the Association shall not be a Lot). For purposes of voting on any issue required to receive the approval of Lot Owners, but not for purposes of Assessments, the Owner of a parcel not yet subject to the Plat but zoned for residential use shall be deemed to be the Owner of the maximum number of Lots into which such parcel may be subdivided under then applicable zoning and other legal requirements. Furthermore, for purposes of determining whether any person or entity (including Declarant) owns a "Lot," ownership of any parcel subject hereto shall count as owning one or more "Lots."

Section 1.22. "Member" or "member" means any person, corporation, partnership, joint venture or other legal entity who is a member of the Association.

Section 1.23. "Notice and Opportunity for Hearing" or "notice and opportunity for hearing" means giving at least fifteen (15) days' prior notice of a proposed action and the reasons therefor, and an opportunity to be heard by the Board or such other body or group as may be required by the Act, orally or in writing, not less than five (5) days before the effective date of the proposed action.

Section 1.24. "Owner" or "owner" shall mean the record owner, except as provided below, whether one or more persons or entities, of fee simple title to any lot, including without limitation, one who is buying a lot under a recorded contract, but excluding others having an interest merely as security for the performance of an obligation. In the case of a lot where fee simple title is vested of record in a trustee under a deed of trust, legal title shall be deemed to be in the trustor. In the case of a lot where fee simple title is vested in a trustee pursuant to a trust agreement, the beneficiary entitled to possession shall be deemed to be the Owner.

Section 1.25. "Plat" means any recorded subdivision plat of any portion of the Property and all amendments thereto.

Section 1.26. "Project" means the Property together with all buildings and other Improvements located thereon and all easements, rights and privileges appurtenant thereto.

Section 1.27. "Project Documents" means this Declaration and the Articles, Bylaws, Association Rules, Architectural Committee Rules and Stormwater Agreements (if any).

Section 1.28. "Purchaser" means any person other than Declarant, who by means of a voluntary transfer becomes the Owner of a Lot, except for an Owner who purchases a Lot and then leases it to Declarant for use as a model in connection with the sale of other Lots.

Section 1.29. "Residential Unit" means any attached residential townhome unit building situated upon a Lot and designed and intended for independent ownership and for use and occupancy as a residence by a Single Family.

Section 1.30. Intentionally Deleted.

Section 1.31. "Single Family" shall mean an individual living alone, a group of two or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, who maintain a common household in a dwelling.

Section 1.32. "Single Family Residence" shall mean a building, house or dwelling unit used as a residence for a Single Family, including any appurtenant garage or storage area.

Section 1.33. "Single Family Residential Use" shall mean the occupation or use of a Single Family Residence in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county or municipal rules and regulations.

Section 1.34. "Stormwater Facility" or "Stormwater Facilities" is defined as any one or more of the following that serves or benefits any part or all of the Property or is required by the applicable legal requirements in connection with any part or all of the Property, whether located in the Property or outside of the Property: (i) "drainage easements" (also referred to herein as "stormwater easements" or "stormwater drainage easements") that are shown on plats of the Property recorded in the registry or established by written instruments recorded in the registry, and which either are located on the Common Area or benefit or serve more than one (1) Lot; and (ii) all stormwater management facilities for the Property including ponds, paver roads, man-made or natural areas and/or planted or landscaped areas into which stormwater drains, or in which stormwater is collected, or from which it is discharged, drains, pipes, conduits, inlets, swales, creeks, streams, channels, dams, ditches, filters, buffers, bio-retention areas, level spreaders, constructed wetlands, and other equipment, facilities and stormwater management measures used for inspecting, monitoring, measuring, testing, collecting, controlling, transporting, conveying, handling, storing, discharging and/or managing stormwater. Except as otherwise provided herein, Stormwater Facilities are part of the Common Area, and maintenance of Stormwater Facilities is a Common Expense. References in the Declaration to stormwater management include all applicable Stormwater Facilities and Stormwater Facility Agreements.

Section 1.35. "Stormwater Agreement" or "Stormwater Facility Agreements" (which term includes any other agreement under applicable legal requirements, by whatever name denominated therein, relating to Stormwater Facilities) is defined as any agreement, if any, required by any applicable legal requirement between the governing authorities and the Declarant or between the governing authorities and the Association, or among the governing authorities, Declarant and Association, or between or among any combination of the governing authorities and the Declarant, the Association and one or more Owners, relating to maintenance of Stormwater Facilities.

Section 1.36. "Townhome Buildings" shall mean each building containing two or more attached Residential Units, including all structural and exterior (including roofs) portions thereof.

Section 1.37. "Visible from Neighboring Property" or "visible from neighboring property" shall mean that an object is or would be visible to a person six feet (6') tall standing on a neighboring lot, neighboring Common Area, or street at an elevation not greater than the elevation at the base of the object being viewed.

Section 1.38. Intentionally Deleted.

Section 1.39. Intentionally Deleted.

ARTICLE II
PLAN OF DEVELOPMENT

Section 2.1. Property Initially Subject to the Declaration. This Declaration is being recorded to establish a general plan for the development and use of the Project in order to protect and enhance the aesthetics, livability and/or desirability (as the case may be) of the Project. All of the Property within the Project shall be held, sold and conveyed subject to this Declaration in addition to the Charter and the Covenant. By acceptance of a deed or by acquiring any interest in any of the Property subject to this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general plan for the development and use of the Property and hereby evidences his intent that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration (including all rights to amend the same as described herein) shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Lots and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and such shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

ARTICLE III
THE ASSOCIATION; RIGHTS AND DUTIES, MEMBERSHIP AND VOTING RIGHTS

Section 3.1. Rights, Powers and Duties. The Association shall be a non-profit North Carolina corporation charged with the duties and invested with the powers prescribed by the North Carolina Non-Profit Corporation Act, the Act, or other applicable law and set forth in the Project Documents together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in the Project Documents. Unless the Project Documents or the Act specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. A copy of the Articles and Bylaws of the Association shall be available for inspection at the office of the Association during reasonable business hours.

Section 3.2. Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers and committees as the Board may elect or appoint in accordance with the Articles and the Bylaws. Until termination of the Class B membership, Declarant shall have the sole and absolute right to appoint and remove members of the Board and officers of the Association. After termination of the Class B membership, the Members shall elect the Board as provided in the Bylaws and the Board shall appoint the officers as provided in the Bylaws.

Section 3.3. Association Rules. The Board may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations, provided, however, that such Association Rules shall not be effective at any time that Declarant owns any Lot unless (i) such Association Rules have been approved by Declarant in writing or (ii) the Class B Membership still exists. The Association Rules may restrict and govern the use of any area by any Owner, by the family of such Owner, or by any invitee, licensee or lessee of such Owner except that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

Section 3.4. Architectural Committee. The Board may establish an Architectural Committee consisting of not less than three (3) members to regulate the external design, appearance and use of the Property, including the individual single-family townhome Lots and the Residential Units thereon, and to perform such other functions and duties as may be imposed upon it by this Declaration or the Board. So long as the Declarant owns any Lot, the Declarant shall have the sole and absolute right to appoint and remove members of the Architectural Committee. At such time as the Declarant no longer owns any lot, the Board shall have the right to appoint and remove members of the Architectural Committee.

Section 3.5. Identity of Members. Membership in the Association shall be limited to Owners of Lots. In addition to being a member of The Towers at Mattie Rose Homeowners Association, Inc., an Owner of a Lot shall automatically, upon becoming the Owner thereof, be a member of the Association and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

Section 3.6. Transfer of Membership. Membership in the Association shall be appurtenant to each Lot and a membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of a Lot and then only to such Purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association.

Section 3.7. Classes of Members. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of each Declarant until the termination of the Class B membership. Each Class A member shall be entitled to one (1) vote for each Lot owned.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to four (4) votes for each Lot owned by such member. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(i) When one hundred percent (100%) of the Lots have been conveyed to Purchasers; or

(ii) When Declarant notifies the Association in writing that it relinquishes its Class B membership.

Section 3.8. Joint Ownership. When more than one person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one ballot be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

Section 3.9. Corporate Ownership. In the event any Lot is owned by a corporation, partnership, limited liability company, or other association, the corporation, partnership, limited liability company or association shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the president, general partner, manager, managing member, or chief executive officer of such corporation, partnership, limited liability company or association shall have the power to vote the membership.

Section 3.10. Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of the Project Documents for a period of thirty (30) days, said Owner's right to vote as a Member of the Association may be suspended for each infraction of the Project Documents after Notice and Opportunity for Hearing, and if suspended after Notice and Opportunity for Hearing shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current.

Section 3.11. Fines. The Association, acting through its Board of Directors, shall have the right to adopt a schedule of fines for violation of any provision of the Project Documents by any Owner or such Owner's licensees and invitees. No fine shall be imposed unless the Owner is provided Notice and Opportunity for Hearing. If it is decided after Notice and Opportunity for Hearing that a fine should be imposed, a fine not to exceed one hundred dollars ($100.00) may be imposed for the violation without further hearing for each day more than five (5) days after the decision that the violation occurs. All fines shall constitute a lien on all lots owned by the Owner and shall be paid within thirty (30) days following imposition. Except as otherwise limited by the Act or other applicable law, failure to pay any fine shall subject the Owner to the same potential penalties and enforcement as failure to pay any assessments under Article IV.

Section 3.12. Limitation on Claims. No claim arising against Declarant or any officer, director, member, manager, employee or other representative of Declarant, including without limitation any claims arising from Declarant's exercise of any right arising from Class B membership or arising from any action or inaction by any person in such person's capacity as an officer, director, member or manager of the Association, shall be asserted by the Association more

than six (6) months following the later of termination of the Class B membership or the termination of such person's service as an officer or director of the Association. All claims that are not filed in a proper court within the foregoing time period shall be deemed forever waived and released. This section shall not be subject to amendment without the written approval of the Declarant.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 4.1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it, hereby covenants, and each Owner of a Lot, by becoming the Owner thereof, whether or not it is expressed in the deed or other instrument by which the Owner acquired ownership of the Lot, is deemed to covenant and agree to pay to the Association annual assessments, special assessments, and any applicable individual assessments. The annual, special, and individual assessments, together, with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made as provided in the Act. Each such Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 4.2. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for payment of Common Expenses, including, without limitation (i) the upkeep, maintenance, insurance, repair and improvement of the Common Area and such portions of any Lot and/or Residential Unit as are by the terms hereof to be maintained by the Association, (ii) maintenance, repair, replacement, and operation of rights-of-way and easements within or immediately adjacent to the Project (e.g. landscaping and sidewalks within the right-of-way of adjoining streets) to the extent that such actions are required by government entities or deemed appropriate by the Board, (iii) promoting the recreation, health, safety and welfare of the Owners and other lawful occupants of Lots within the Property, (iv) the performance and exercise by the Association of its rights, duties and obligations under the Project Documents, (v) maintaining any Stormwater facilities located on portions of Common Areas to the standard required by the governmental entity or agency having jurisdiction over such areas, and (vi) to allocate to reserves that can then be used to pay any other Common Expenses. Notwithstanding the foregoing, individual assessments shall be used for fixing or remedying that problem which they were collected to address, and shall be accounted for separately from annual and special assessments.

Without limiting the foregoing, prior to the dedication and acceptance by the applicable governmental authority of the streets within the Project for public maintenance, but not thereafter unless it otherwise deems it necessary, the Association (a) shall be solely and exclusively responsible for the maintenance, repair, replacement management, operation and condition of the streets as part of the Common Area, (b) shall at all times maintain, repair and replace the streets in good repair and order, (c) shall manage, operate and oversee the streets in a manner complying with the provisions of this Declaration and any requirements which may be imposed at any time, from time to time, by any governmental authority, and (d) is and shall be authorized to promulgate and adopt rules concerning the use, enjoyment, operation, management, maintenance, repair, replacement and improvement of the Roads, subject to the terms and conditions of this Declaration.

The Association may establish a streets maintenance reserve fund as deemed necessary by the Board and may collect through its Annual or other Assessments towards the same.

Section 4.3. Annual Assessment.

(A) For each fiscal year of the Association commencing upon the first conveyance of a Lot to a Purchaser, the Board shall adopt a budget for the Association containing an estimate of the total amount of funds which the Board believes to be required during the ensuing fiscal year to pay all Common Expenses including, but not limited to (i) the amount required to pay the cost of insurance, maintenance, management, operation, repair and replacement of the Common Area and those parts of the Lots, Residential Units, or other real property (such as any Common Area conveyed out of the Association pursuant to Section 12.6 herein), if any, which the Association has the responsibility of insuring, maintaining, repairing or replacing under the Project Documents, (ii) the cost of wages, materials, insurance premiums, services, supplies and maintenance or repair of the Common Area and for the general operation and administration of the Association, (iii) the amount required to render to Owners all services required to be rendered by the Association under the Project Documents, and (iv) such amounts as may be deemed necessary by the Board to provide general operating reserves and reserves for contingencies and replacement all as contemplated herein. The Board shall send written notice of a summary of the proposed budget as well as the amount of the payment due to each Owner within thirty (30) days after the adoption by the Board of such budget. To the extent required by Section 47F-3-103(c) of the Act or other applicable law, such notice shall include notice of a meeting of the Members to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. If such a meeting is required by Section 47F-3-103(c) of the Act, or other applicable law, the Board shall set a date for a meeting of the Members to consider ratification of the budget to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. If such meeting is required as set forth above, there shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at such meeting Members exercising a majority of all of the votes eligible to be cast in the Association reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board. The failure of the Board to send, or of a Member to receive, any budget notice shall not relieve any Member of the obligation to pay Assessments.

(B) For each fiscal year of the Association the total amount of the estimated Common Expenses as established by the approved budget shall be assessed by the Board. Except to the extent that this Declaration expressly provides otherwise, and except with respect to individual assessments and assessments relative to Declarant-owned Lots, all assessments shall be equal on all Lots.

(C) Lots or parcels owned by the Declarant shall be annually assessed at a rate of 10% of the annual amount of the assessments against all other Lots. If a Lot ceases to be owned by Declarant and therefore becomes subject to the standard assessment rate during the period to which an annual assessment is attributable, the assessment shall be prorated based on the basis of the number of days in the assessment period that the Lot is not owned by Declarant.

(D) The Declarant for each calendar year shall pay to the Association any amounts (hereinafter "Subsidy Amounts") which, in addition to the annual assessments levied by the Association, are required by the Association in order for the Association to fully perform its duties and obligations under the Project Documents for the applicable year. Notwithstanding the foregoing, Declarant shall have no obligation to pay any combination of Subsidy Amounts and assessments during any calendar year in excess of the total amount that Declarant would have paid during such calendar year if Declarant were paying full assessments on its Lots. Any estimated payment by the Declarant to fund Subsidy Amounts under this section in excess of Declarant's actual obligation for Subsidy Amounts under this section shall, at Declarant's option, be credited toward payment of Declarant's next due Subsidy Amounts or shall be refunded to Declarant; for example, if Declarant pays $25,000 to the Association in the middle of a calendar year to fund estimated Subsidy Amounts and the actual Subsidy Amounts required as of the end of the year would have been only $20,000 in the absence of such payment, then Declarant shall be entitled to a $5,000 credit toward its next due Subsidy Amount payment or a refund of $5,000. Payments under this section shall be made by Declarant on such basis and on such timelines as are determined from time to time by the Board, but in no event more often than monthly or less often than annually.

(E) The Board shall adopt a proposed budget and give notice of the estimated annual assessment to each Owner at least thirty (30) days prior to the beginning of each fiscal year of the Association, but the failure to give such notice shall not affect the validity of the annual assessment established by the Board nor relieve any Owner from its obligation to pay the annual assessment.

Section 4.4. Special Assessments and Individual Assessments. In addition to the annual assessments authorized above and individual assessments authorized below, the Association may levy, in any fiscal year, a special assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the Common Area or portions of any Lot or Residential Unit the Association is required to maintain, including fixtures and personal Property related thereto, or for any other lawful Association purpose, provided that any such special assessment shall have the assent of Members having at least two-thirds (2/3) of the votes entitled to be cast by Members who are voting in person or by proxy at a meeting duly called for such purpose. Special assessments shall be levied at a uniform rate for all Lots benefitted by the special assessment.

In addition to the annual and special assessments authorized above, the Association, acting through the Board may assess individual assessments against Owners and their Lots for: (i) any costs incurred by the Association by reason of the Owner's failure to maintain its Lot and Residential Unit to the standard required herein, or (ii) any costs incurred by the Association as a result of such Owner's (or its tenant's, agent's, contractor's, family member's or invitee's) negligence, willful misconduct, or default under its obligations under the Project Documents, including any costs for maintenance or repair and reasonable attorney's fees.

Section 4.5. Notice and Quorum for Any Action Authorized Under Sections 4.3 or 4.4. Written notice of any meeting called for the purpose of obtaining the consent of the Members for any action for which the consent of the Members is required under Sections 4.3 and 4.4 shall be sent to all Members no less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to

cast ten percent (10%) of all the votes of each class of Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4.6. Date of Commencement of Annual Assessments; Due Dates. The annual assessments shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to a Purchaser. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board may require that the annual assessment be paid in installments and in such event the Board shall establish the due dates for each installment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association or the Association's designated agent setting forth whether the Assessments on a specified Lot have been paid.

Section 4.7. Effect of Non-payment of Assessments; Remedies of the Association.

(A) Any Assessment, or any installment of an Assessment, not paid for a period of thirty (30) days or longer after the Assessment, or the installment of the Assessment, first became due shall have added to such Assessment or installment, a late payment charge not to exceed the greater of (i) ten percent (10%) of the amount of the unpaid Assessment, or (ii) twenty dollars ($20.00) per month. Any amounts paid by a Member shall be applied first to unpaid principal and then to late charges or interest. Any Assessment, or any installment of an Assessment, which is delinquent shall become a continuing lien on the Lot against which such Assessment was made as provided in §47F-3-116 of the Act. The Assessment Lien may be placed of record in the office of the clerk of superior court in the county in which the Lot is located by filing a "Claim of Lien" in the manner set forth in §47F-3-116 of the Act.

(B) The Assessment Lien shall have priority over all liens or claims created subsequent to the recordation of this Declaration except for (i) tax liens for real Property taxes on the Lot, (ii) assessments on any Lot in favor of any municipal or other governmental body and (iii) the lien of any First Mortgage or the lien of any other encumbrance, including the lien for assessments under the Charter and the Covenant, respectively, recorded before the docketing of the claim of lien in the office of the clerk of court.

(C) Before filing a Notice of Claim of Lien against any Lot, the Association shall make reasonable and diligent efforts to ensure that its records contain the Owner's current mailing address and make a written demand to the defaulting Owner for payment of the delinquent Assessments together with late charges, interest, reasonable collection costs and reasonable attorneys' fees, if any. The demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien but any number of defaults may be included within a single demand or claim of lien. If the delinquency is not paid within fifteen (15) days after delivery of the demand, the Association may proceed with filing a Claim of Lien against the Lot of the defaulting Owner. The Association shall not be obligated to release the Assessment Lien until all delinquent Assessments, late charges, interest, lien recording fees, reasonable collection costs and reasonable attorneys' fees have been paid in full. The Owner shall

be notified in writing of the Association's intent to seek payment of attorneys' fees and court costs in accordance with §47F-3-116(e) of the Act.

(D) The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with late charges, interest, lien recording fees, reasonable collection costs, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, (i) bringing an action at law against the Owner personally obligated to pay the delinquent Assessment Lien securing the delinquent Assessments or (ii) bringing an action to foreclose the Assessment Lien against the Lot in the manner set forth in §47F-3-116 of the Act. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

Section 4.8. Subordination of the Lien to Mortgages. The Assessment Lien shall be subordinate to the lien of any First Mortgage or the lien of any other encumbrance recorded before the docketing of the claim of lien in the office of the clerk of court. The sale or transfer of any Lot shall not affect the Assessment Lien except that the sale or transfer of a Lot pursuant to judicial or nonjudicial foreclosure of a first mortgage or any bona fide, good faith proceeding in lieu thereof shall extinguish the Assessment Lien as to payments which became due prior to the sale or transfer. Such unpaid Assessments shall be deemed Common Expenses collectible from all Owners, including the Purchaser at foreclosure. In addition, no sale or transfer shall relieve the Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

Section 4.9. Exemption of Owner. No Owner of a Lot may exempt himself from liability for Assessments levied against his Lot or for other amounts which he may owe to the Association under the Project Documents by waiver and non-use of any of the Common Area and facilities or by the abandonment of his Lot.

Section 4.10. Intentionally Deleted.

Section 4.11. No Offsets. All Assessments and other amounts payable to the Association shall be payable in accordance with the provisions of the Project Documents, and no offsets against such Assessments or other amounts shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Project Documents.

Section 4.12. Stormwater Assessments. The Assessments of the Association shall include amounts for upkeep and reconstruction of the Stormwater Facilities. The Association shall maintain two (2) separate line items in its budget for the Stormwater Facilities. The first line item, the "Inspection and Maintenance Fund," shall be for routine inspection and maintenance expenditures and shall be used for annual inspections, maintenance, and minor repairs. The funds for this purpose may be maintained as part of the Association's general account. The second line item, the "Major Reconstruction Fund," shall be a separate, increasing reserve fund that will build over time and provide money for major repairs to and eventual reconstruction of the Stormwater Facility. The Major Reconstruction Fund shall be maintained in an account that is separate account from the Association's general account. Each Lot shall be subject to Assessments by the Association for the purpose of fulfilling the Association's obligations under this Declaration as it relates to Stormwater Facilities and under any Stormwater Facility Agreement.

Section 4.13. Intentionally Deleted.

Section 4.14. Initial Working Capital. Upon the closing of any sale of any Lot by Declarant or by any Builder, to a homeowner, and only upon such initial sale, the Owner shall pay to the Association a one-time initial capital contribution of $250.00. This contribution shall be collected at the applicable closing and shall be deposited into and shall be part of the general operating funds of the Association. This working capital contribution may be used in covering normal operating expenses incurred by the Association pursuant to this Declaration and the Bylaws, including expensed incurred by the Declarant in providing infrastructure and other Common Area. This amount may be increased or decreased from time to time in the sole and exclusive discretion of the Board.

Section 4.15. Declarant Audit Right. Following the termination of the Class B membership and so long as Declarant owns any Lot or any portion of a Lot or Common Area, the Declarant shall have the right to audit the books and records of the Association.

Section 4.16. Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

ARTICLE V
USE RESTRICTIONS

Section 5.1. Residential Use. Except as otherwise provided herein, all lots shall be improved and used only for Single Family Residential Use. No gainful occupation, profession, trade or other commercial activity shall be conducted on any lot; provided, however, the Declarant may use the lots for such facilities as in its sole opinion may be reasonably required, convenient or incidental to the construction and sale of residential units, including, without limitation, a business office, storage areas, construction yards, signs, a model site or sites, and a display and sales office. Notwithstanding the foregoing, home businesses are permitted on the lots provided they are in accordance with the Charter and applicable municipal ordinances for home business in residential districts, and provided that they do not generate vehicle traffic within the Property above and beyond what would generally be generated without the operation of said business.

Section 5.2. Building Type and Size. No building shall be constructed or permitted to remain on any lot other than one attached Single Family Residence not to exceed three stories in height and a private one to three car garage. Unless otherwise approved in writing by the Architectural Committee, all buildings shall be of new construction and no prefabricated structure shall be placed upon any lot; storage structures and/or a sales office may be maintained upon any lot or lots by the Declarant and its contractors, for the purpose of erecting and selling

dwellings on the Property or for the purpose of constructing improvements on the Common Area, but such temporary structures shall be removed upon completion of construction or selling of a dwelling or the Common Area, whichever is later. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out buildings shall be used on any lot at any time as a residence, either temporarily or permanently. Declarant and contractors for Declarant shall have the right to place temporary construction trailers and store materials on the Common Areas and Lots for the purpose of constructing improvements on the Common Areas and Lots. Except as above, no storage sheds shall be allowed on any Lot.

Section 5.3. Signs. No sign of any kind which is Visible From Neighboring Property shall be installed or displayed on any Lot or Common Area without the prior written approval of the Association as to size, color, design, message content, number and location except: (i) such signs as may be used by Declarant in connection with the construction, development and sale of Lots and/or Residential Units or Common Area in the Project need not be approved; (ii) such signs as may be required by legal proceedings, or which by law, may not be prohibited; (iii) one temporary sign per Lot no larger than 30" x 24" used exclusively to advertise the Lot for sale (but not for rent); (iv) a maximum of one political sign with maximum dimensions of 24 inches by 24 inches (or such greater number and/or greater size of political signs permitted by ordinances if the governing body regulates the size and number of political signs on residential property) may be placed on a Lot by the Owner of that Lot; provided, however, that no political signs may be displayed pursuant to this Section 5.3 earlier than 45 days before an election day or more than 7 days after an election day, or (v) such signs as may be desired by Declarant or required for traffic control, construction job identification, builder identification, and subdivision identification as are in conformance with governmental requirements. All other signs must be approved in advance in writing by the Architectural Committee as provided above (and no rental signs shall be allowed, if at all, except in windows of houses and not outside of any house). All signs must conform to applicable ordinances and other governmental requirements. Furthermore, and notwithstanding the foregoing, in no event shall any signs advertising residential property for lease or rent be displayed within 24 months after the initial conveyance of a Lot with a Residential Unit constructed thereon to an Owner from Declarant.

Section 5.4. Noxious and Offensive Activity. No noxious or offensive activity shall be allowed on the lots nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners and tenants of their respective lots and residences. Without limiting the generality of the foregoing, no speakers, horns, sirens or other sound devices, except security devices used exclusively for security purposes, shall be located or used on a lot. The provisions of this section shall not apply to any activity of Declarant or its employees, agents, or contractors during the course of construction activities or sales activities upon or about the Property.

Section 5.5. Parking. Parking of Vehicles (as defined in Section 5.6) is prohibited in the front yard of lots except on a driveway. Subject to any applicable restrictions in the Charter, if any, parking of Vehicles on any street within the Property is prohibited except that Vehicles that are too large to fit on a driveway may park on the portion of the street directly adjacent to the Owner's lot during daylight hours only and must either be put into the garage or removed from the Property during nighttime hours. Parking of any inoperable Vehicle anywhere

on a lot or anywhere on a street within the Property is prohibited. No part of any Vehicle may be parked over any part of a sidewalk because such parking may impede use of the sidewalks, particularly for persons with disabilities using the sidewalks. The provisions of this Section 5.5 shall not apply to (a) Vehicles that are exempt from this subsection under applicable law, (b) Vehicles of Declarant or its employees, agents, or contractors during the course of construction activities or sales activities upon or about the Property, or (c) Vehicles used by the Association in repairing, maintaining and replacing the Common Areas and all Improvements thereon, and in performing all other rights, duties and obligations of the Association under this Declaration.

Section 5.6. Motor Vehicles.

(A) No automobile, truck, motorcycle, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat trailer or other similar equipment or motor vehicle of any kind (collectively, "Vehicles" and individually a "Vehicle") shall be parked, kept or maintained on the Common Area or in any side or rear yard of any lot. Vehicles that exceed 18.5 feet in length, 6.25 feet in height or 7 feet in width are prohibited on the Property unless (i) owned by any guest or invitee of any Owner or tenant and parked on a Lot only during such time as the guest or invitee is visiting the Owner or tenant, but in no event shall such a motor vehicle be parked on a Lot for more than seven (7) days during any six (6) month period of time.

(B) Except for emergency Vehicle repairs on a Lot, no Vehicle of any kind shall be constructed, reconstructed or repaired on any Lot or the Common Area. No inoperable Vehicle or Vehicle which because of missing fenders, bumpers, hoods or other parts or because of lack of proper maintenance is, in the sole opinion of the Architectural Committee, unsightly or detracts from the appearance of the Project shall be stored, parked or kept on any Lot. All emergency repairs must be completed with 48 hours. No boats may be kept on the Property except in a closed garage.

(C) No Vehicle classed by manufacturer rating as exceeding one ton and no commercial Vehicle may be parked or stored on any area in the Project; provided, however, this provision shall not apply to Vehicles that are pickup trucks of less than one-ton capacity with camper shells not exceeding 7 feet in height and 18.5 feet in length which are parked as provided in Section 5.5 and are used on a regular and recurring basis for transportation. For purposes of this section, commercial Vehicles shall mean any Vehicle that (i) displays the name, tradename, telephone number or other identifying information of any business or governmental entity or (ii) otherwise bears the appearance of a commercial Vehicle by reason of its normal contents (e.g. trade goods, extensive tools, ladders), as reasonably determined by the Architectural Committee.

(D) The provisions of this Section 5.6 shall not apply to (a) Vehicles that are exempt from this subsection under applicable law, (b) Vehicles of Declarant or its employees, agents, or contractors during the course of construction activities or sales activities upon or about the Property, or (c) Vehicles used by the Association in repairing, maintaining and replacing the Common Areas and all Improvements thereon, and in performing all other rights, duties and obligations of the Association under this Declaration.

Section 5.7. Towing of Vehicles. The Association shall have the right to have any Vehicle parked, kept, maintained, constructed, reconstructed or repaired in violation of the

Project Documents towed away at the sole cost and expense of the owner of the Vehicle or equipment. Any expense incurred by the Association in connection with the towing of any Vehicle shall be paid to the Association by the owner of the Vehicle. If the Vehicle towed is owned by an Owner, then the cost incurred by the Association in towing the vehicle or equipment shall be assessed against the Owner and his Lot and be payable on demand, and such cost shall be secured by the Assessment Lien.

Section 5.8. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any lot except such machinery or equipment as is usual and customary in connection with the use or maintenance of improvements constructed by the Declarant or approved by the Architectural Committee. The provisions of this section shall not apply to any activity of Declarant or its employees, agents, or contractors during the course of construction activities or sales activities upon or about the Property.

Section 5.9. Restrictions and Further Subdivision. No lot shall be further subdivided or separated into smaller lots or parcels by any Owner other than the Declarant, and no portion less than all or an undivided interest in all of any lot shall be conveyed or transferred by any Owner other than the Declarant.

Section 5.10. Easements and Restrictions relating to Protected Areas. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Association, its successors and assigns, any such easements as are referenced on any Plats, relative to stormwater management, utilities, landscaping and other easements as may be necessary or desirable and reserved on a Plat in order for Declarant to access, develop, repair, replace and maintain and in order for the Association to access, repair, replace and maintain any portion of the Property in accordance with this Declaration.

Section 5.11. HVAC. Except as initially installed by the Declarant and except for replacement units as described below, no heating or air conditioning unit shall be placed, constructed or maintained upon any lot without the prior written approval of the Architectural Committee. In the event a heating or air conditioning unit needs to be replaced, an Owner may install a replacement unit in the same or substantially same location as the original unit without the approval of the Architectural Committee.

Section 5.12. Landscaping; Fencing. No landscaping improvements shall be installed or removed on Lots by the Owners thereof except with the written approval of the Architectural Committee and no landscaping improvements that are not comprised of native vegetation shall be allowed whatsoever. This Section 5.12 shall not apply to landscaping installation or removal by Declarant. No fence shall be allowed on any Lot except as that any fencing originally installed by Declarant shall be allowed (and may be maintained, repaired and replaced by the Association as need be all to retain its original character, appearance and quality).

Section 5.13. Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the construction, installation or maintenance by a Declarant (or its designated agents and contractors) during the period of development, construction, performance of warranty work, sales and marketing on the Property, or any production homes, model homes and sales offices and parking incidental thereto, construction trailers, landscaping or signs deemed

necessary or convenient by a Declarant in its sole discretion, to the development, construction, sale and marketing of property within the Property. The Association shall take no action that would interfere with access to or use of model homes; without limitation of the foregoing, the Association shall have no right to close private streets to access by members of the public desiring access to model homes.

Section 5.14. Leasing Restrictions. All tenants shall be subject to the terms and conditions of this Declaration and the other Project Documents. Each Owner shall cause his, her or its tenants or other occupants to comply with this Declaration and the Project Documents and, to the extent permitted by applicable law, shall be responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such tenants or occupants are also fully liable for any violation of each and all of those documents. In no event shall any signs advertising residential property for lease or rent be displayed within 24 months after the initial conveyance of a Lot with a Residential Unit constructed thereon to an Owner from Declarant. The provisions of this Section 5.14 shall not apply to any Declarant's use of Lots owned by (or leased to) Declarant, as applicable, as a model home or for marketing purposes.

Section 5.15. Animals. No animals, insects, livestock, or poultry of any kind shall be raised, bred, or kept on or within any Lot or structure thereon except that non-dangerous dogs, cats or other common household pets (as determined by the Board) may be kept on or within the lots, provided they are not kept, bred or maintained for any commercial purpose, or in unreasonable numbers as determined by the Architectural Committee. Notwithstanding the foregoing, no animals or fowl may be kept on any lot which results in a nuisance to, which is an annoyance to, or which are obnoxious to other Owners or tenants in the vicinity. Pets must not be outside of any Residential Units unless on a leash or unless otherwise under the control of the Owner of the pet at all times. No structure for the care, housing or confinement of any animal or fowl shall be allowed outside of any Residential Unit. The Board has the unfettered and exclusive right at any time and from time to time to exclude, or have removed from the Property after notice to the Owner and opportunity for a hearing, animals or types of animals that in the Board's sole discretion it finds to constitute an unreasonable annoyance, inconvenience, menace, threat, nuisance, or that the Board finds create an unsanitary condition with the Property.

Section 5.16. Drilling and Mining. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind, shall be permitted upon or in any lot nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted on any lot. No "fracking" shall be permitted and no derrick or other structure designed for use in boring for or removing water, oil, natural gas or other minerals shall be erected, maintained or permitted upon any lot.

Section 5.17. Refuse. All refuse, including without limitation all animal wastes, shall be regularly removed from the lots and shall not be allowed to accumulate thereon. Until removal from the lots, refuse shall be placed in closed refuse containers with operable lids so that such containers are not open to the air. Refuse containers shall be kept clean, sanitary and free of noxious odors. Refuse containers shall be kept inside of Residential Units, or otherwise so as not to be Visible from Neighboring Property, except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. In no case shall a refuse or recycling container be permitted to remain outside of a Residential Unit overnight.

Section 5.18. Antennae / Satellite Dishes. No exterior antenna or satellite dish (all together "Receiver") greater in size than 30 inches in diameter may be placed on any Residential Unit or otherwise on any Lot except in a location where it is not visible to a person six feet (6') tall standing on any portion of the street(s) on which the applicable Lot fronts. Furthermore, the location, appearance, screening from view, installation, and all other aspects of the Receiver and placement of the same shall be subject to the prior written approval of the Architectural Committee to the extent said Architectural Committee adopts further rules and regulations regarding placement and screening of Receivers. To the extent this restriction may later be determined to be unenforceable pursuant to applicable laws; including but not limited to any rules and regulations promulgated by the Federal Communication Commission (as from time to time may be amended), an Owner shall nevertheless be restricted in its placement of said Receiver to an area which is least visible from the front of the Residential Unit and which causes or is likely to cause the least interference with the placement and use of Receivers by other Owners. Any permitted Receiver shall be installed, maintained and replaced in accordance with rules and regulations adopted by the Board from time to time. Nothing in this section, however, shall prohibit (but shall not obligate) the Declarant or the Association from erecting a central master Receiver other similar master telecommunication system for the benefit of the Lots and charging fees for usage thereof.

Section 5.19. Utility Services. All lines, wires, propane gas tanks, or other devices for the communication or transmission of electric current or power, including telephone, television, gas and radio signals, shall be contained in tanks, conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved by the Architectural Committee. Temporary power or telephone structures incident to construction activities approved by the Architectural Committee are permitted.

Section 5.20. Diseases and Insects. No Owner or resident shall permit anything or condition to exist upon a lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

Section 5.21. Architectural Control.

(A) No excavation or grading work shall be performed on any Lot without the prior written approval of the Architectural Committee. Each Owner altering any grading or drainage on a Lot shall ensure that such alterations comply with all requirements of any grading or drainage plan approved by any governmental entity having jurisdiction over the Property and that such alterations do not alter or impede the flow of storm water from the manner existing prior to such alterations; approval of plans or proposed improvements by the Architectural Committee shall not constitute a waiver of this requirement or a warranty that such plans or improvements are consistent with this requirement or any other requirement of this Declaration, the Association Rules or Architectural Committee Rules, any governmental requirement or construction industry standard.

(B) No Improvements shall be constructed or installed on any Lot without the prior written approval of the Architectural Committee.

(C) No addition, alteration, repair, change or other work which in any way alters the exterior appearance, including but without limitation, the exterior color scheme, of any Lot, or the Improvements located thereon, shall be made or done without the prior written approval of the Architectural Committee.

(D) Any Owner desiring approval of the Architectural Committee for the construction, installation, addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of the Improvement, shall submit to the Architectural Committee a written request for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change or replacement of any Improvement which the Owner desires to perform. Any Owner requesting the approval of the Architectural Committee shall also submit to the Architectural Committee any additional information, plans and specifications which the Architectural Committee may request. In the event that the Architectural Committee fails to approve or disapprove an application for approval within sixty (60) days after the application, together with all supporting information, plans and specifications requested by the Architectural Committee have been submitted to it, approval will not be required and this section will be deemed to have been complied with by the Owner who had requested approval of such plans.

(E) The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this section shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval.

(F) Upon receipt of written approval from the Architectural Committee for any construction, installation, addition, alteration, repair, change or other work, the Owner who had requested such approval shall proceed to perform, construct or make the construction, installation, addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practical and within such time as may be prescribed in writing by the Architectural Committee.

(G) The approval of the Architectural Committee required by this Declaration shall be in addition to, and not in lieu of, any approvals, consents or permits required under the Charter, the Covenant and the ordinances or rules and regulations of any county or municipality having jurisdiction over the Project.

(H) The provisions of this Section 5.21 shall not apply to, and approval of the Architectural Committee shall not be required for, the construction, erection, installation, addition, alteration, repair, change or replacement of any Improvements made by, or on behalf of, the Declarant.

(I) In no event shall the Association, the Architectural Committee or any member of the Architectural Committee have any liability for any action or inaction by the Architectural Committee or its members, including without limitation any approval or disapproval of plans by the Architectural Committee. The sole remedy for an Owner asserting that the Architectural Committee has improperly withheld approval or has improperly granted approval

shall be an action to compel the Architectural Committee to take appropriate action. In no event shall any damages of any nature be awarded against the Association, the Architectural Committee or any member of the Architectural Committee of any nature arising from any action or inaction described in this Section 5.21.

(J) Each Owner is strongly advised to consult with independent architects and engineers to ensure that all improvements or alterations made by such Owner are safe and in compliance with applicable governmental requirements. No approval by the Architectural Committee shall constitute a guaranty or warranty by the Association, the Architectural Committee or any member of the Architectural Committee that the matters approved will comply with this Declaration, any Association Rules or Architectural Committee Rules, or any applicable governmental requirements or that any plans or improvements are safe or properly designed. The Owner constructing or altering any improvements shall indemnify, defend and hold the Association harmless from (i) any claims or damages of any nature arising from such improvements or alterations or any approval thereof by the Architectural Committee and (ii) any claim that the Association, the Architectural Committee or any member of the Architectural Committee breached any duty to other Owners in issuing approval of such Owner's improvements or alterations.

Section 5.22. Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot.

Section 5.23. Overhead Encroachments. No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way or other area from ground level to a height of eight (8) feet without the prior written approval of the Architectural Committee.

Section 5.24. Drainage. No Residential Unit, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot as shown on the approved drainage plans on file with the municipality or other governing body in which the Project is located. In addition, no Owner or other Person shall change the grade or elevation of a Lot in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the approved drainage plans.

Section 5.25. Basketball Goals and Backboards. No basketball backboard, hoop or similar structure or device shall be permitted except in accordance with the Architectural Committee Rules.

Section 5.26. Playground Equipment. No jungle gyms, swing sets or similar playground equipment shall be erected or installed on any Lot.

Section 5.27. Lights. Except as initially installed by the Declarant, no spotlights, floodlights or other high intensity lighting shall be placed or utilized upon any Lot or any structure erected thereon which in any manner will allow light to be directed or reflected on any other property except as approved by the Architectural Committee.

Section 5.28. Flags. The official flag of the United States and/or the State of North Carolina may be displayed on any Lot provided, that, (i) such flag is displayed in the manner required under the federal flag code from a pole attached to a Residential Unit on the Lot, (ii) no more than one (1) flag may be allowed at any one time on any Lot; (iii) the flag is no more than three feet by five feet (3' X 5') in size and the pole on which it is mounted is not greater than four inches (4") in diameter and five (5') feet in length; and (iv) the flag is maintained in good condition. The flag of another nation may be displayed in lieu of the United States Flag on national holidays of such nation provided such display complies with the requirements for displaying the United States Flag.

Section 5.29. Yard Sales. Owners may hold "yard sales" to sell personal property of such Owners only in compliance with the following requirements: (i) yard sales shall be limited to two days per year on any Lot, (ii) no yard sale shall commence prior to 8 AM EST or continue after 5 PM EST, (iii) no Owner shall post any signs advertising any yard sale anywhere on the Property except that a temporary sign may be posted on such Owner's Lot on the day that a yard sale is being held, and (iv) if the Association ever adopts standard yard sale dates for the Property, yard sales shall be held only on such dates. The Association shall give reasonable notice to all Owners if it adopts standard yard sale dates for yard sales on the Property.

Section 5.30. Holiday Displays. Owners may display holiday decorations which are Visible from Neighboring Property only if the decorations are of the kinds normally displayed in single family residential neighborhoods, are of reasonable size and scope, and do not disturb other Owners and residents by excessive light or sound emission or by causing an unreasonable amount of spectator traffic. Holiday decorations may be displayed between November 1 and January 31 of each year and, during other times of year, from one week before to one week after any nationally recognized holiday.

Section 5.31. Firearms. The carrying, use or discharge of firearms or other weapons within the Property is prohibited. The term "firearms or other weapons" includes, but is not limited to, "B-B" guns, pellet guns, knives, swords, cross-bows and other firearms or other weapons of all types, regardless of size.

ARTICLE VI
RESERVATION OF RIGHT TO RESUBDIVIDE AND REPLAT

Subject to the approval of any and all appropriate governmental agencies having jurisdiction, Declarant hereby reserves the right at any time, without the consent of other Owners, to re-subdivide and re-plat any Lot or Lots or parcels which the Declarant then owns and has not sold, along with the right to convert Lots it owns to right-of-way and vis versa.

ARTICLE VII
INTENTIONALLY DELETED

ARTICLE VIII
LOT AND TOWNHOME UNIT MAINTENANCE BY OWNER AND ASSOCIATION

Section 8.1 Owner Maintenance. Except as maintained and repaired by the Association in accordance with this Article and otherwise as provided in this Declaration, each

Owner shall maintain his Lot and Residential Unit in good repair. The yards and landscaping on all improved Lots shall be neatly and attractively maintained, and shall be cultivated and planted to the extent required to maintain an appearance in harmony with other improved Lots in the Property. If any sidewalk is partially or completely located on an Owner's Lot and third parties have an easement to use such sidewalk, then the Association (and not the Owner) shall be responsible for the maintenance and repair of such sidewalk. During prolonged absence, an Owner shall arrange for the continued care and upkeep of his Lot. In the event a Lot Owner fails to fulfill his maintenance and repair obligations under this Article, the Association may undertake required repairs, replacement and maintenance and charge the cost thereof to the Lot Owner as an individual assessment. An Owner shall not allow a condition to exist on his Lot which will adversely affect any other Lots and Residential Units or other Owners. Without limiting the foregoing, Owners, and not the Association, shall be responsible for watering their own lawns and landscaping on their Lots, and are subject to individual assessment for failure to do so and for any resulting replacement costs incurred as a result of such failure.

Section 8.2 Association Maintenance. The Association (and not the individual Owners) shall provide exterior building maintenance for the Residential Units and Lots as follows: paint, stain, repair, replace and maintain of the exterior surfaces of the Residential Units, including the painting of entry doors and the repair of siding (but excluding repair and replacement of entry doors and garage doors and their appurtenant hardware; excluding the repair of wall sheathing; and further excluding all exterior glass including windows and patio doors); repair, replace, and maintain roof shingles (but excluding maintenance, repair and replacement of other portions of the roof); repair and replace gutters and downspouts; exterior pest control (quarterly). The Association shall likewise maintain all yards, lawn areas and grassy areas, and landscaped features and areas (including but not limited to plants, flowers, trees and bushes, but not including irrigation systems) located on the Lots and the same within all adjacent Common Areas and without limitation within the street rights of ways, provided, however, that Owners shall maintain their own rear yards and landscaping (inside of fences).The required maintenance shall include grass mowing, removal of weeds and grass clippings, fertilization and aeration, all to be performed in manner and frequency as determined by the Board of Directors. The exterior facades of each Residential Unit shall be pressured washed once annually at the expense and direction of the Association. The cost of providing the repair and maintenance work described above, as well as reserves for the same shall be assessed against the Lots as part of the Assessments under this Declaration. Owners, and not the Association, shall be responsible for watering their own lawns and landscaping on their Lots, and are subject to individual assessment for failure to do so and for any resulting replacement costs incurred as a result of such failure. Furthermore, the Association shall obtain such insurance for the benefit of the Owners and their Residential Units as is described in Article XI and shall charge the Owners of said Units for such insurance as part of their Assessments.

Section 8.3 Community Wide Standard. All maintenance and repair under this Declaration shall be conducted so as to maintain the Project in first-class condition, consistent with other first-class townhome communities in the Charlotte/Mecklenburg County Area (the "Community-Wide Standard").

ARTICLE IX
EASEMENTS

Section 9.1. Owner's Easements of Enjoyment.

(A) Every Member, and any person residing with such Member, shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the provisions of the Act and to the following provisions:

(i) The right of the Association to charge reasonable admission and other fees for the use of any recreational or other facility situated upon the Common Area, if any.

(ii) The right of the Association after Notice and Opportunity for Hearing to suspend the voting rights and right to the use of the recreational facilities, if any, located upon Common Area by any Member for any period during which any Assessment against his Lot remains delinquent.

(iii) Subject to §47F-3-112 of the Act, the right of the Association to convey or encumber all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Board, provided, however, that any such action taken at any time that Declarant owns any Lot shall be subject to the approval of Declarant. If ingress or egress to any Lot is through the Common Area, any conveyance or encumbrance of the Common Area shall be subject to the Lot Owner's easement of ingress and egress.

(iv) The right of the Association to regulate the use of the Common Area through the Association Rules and to prohibit or limit access to such portions of the Common Area, such as landscaped right-of-ways, not intended for use by the Owners or other lawful occupants of a Residential Unit.

(B) If a Lot is leased or rented by the Owner thereof, the tenant and the members of his family residing with such tenant pursuant to the lease shall have the right to use the Common Area during the term of the lease, and the Owner of such Lot shall have no right to use the Common Area until the termination or expiration of such lease.

(C) The guest and invitees of any Member or other person entitled to use the Common Area pursuant to this Declaration may use any recreational facility located on the Common Area provided they are accompanied by a Member or other person entitled to use the recreational facilities pursuant to this Declaration. The Board shall have the right to limit the number of guests and invitees who may use the recreational facilities located on the Common Area at any one time and may restrict the use of the recreational facilities by guests and invitees to certain specified times.

Section 9.2. Drainage Easements. There is hereby created a blanket stormwater management easement for drainage of ground water on, over and across each lot in such locations as Stormwater Facilities are located. An Owner shall not at any time hereafter fill, block or obstruct any Stormwater Facilities on his lot and each Owner shall repair and maintain all

Stormwater Facilities located on his lot. No structure of any kind shall be constructed and no vegetation shall be planted or allowed to grow within the drainage easements which may impede the flow of water under, over or through the easements or which may materially increase the flow of water onto another lot. All drainage areas shall be maintained by the Owner of the lots on which the easement area is located.

Section 9.3. Utility Easements. Except as installed by the Declarant or as otherwise approved by the Architectural Committee, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, cable and radio signals, shall be erected, placed or maintained anywhere in or upon any lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures. No structure, landscaping or other improvements shall be placed, erected or maintained upon any area designated on the Plat as a public utility easement which may damage or interfere with the installation and maintenance of utilities. Such public utility easement areas, and all improvements thereon, shall be maintained by the Association (the cost of the same being a Common Expenses), except to the extent they are to be maintained by the Owner of the lot under Article VIII, or unless the utility company or a county, municipality or other public authority maintains said easement area. There is hereby created a blanket easement upon, across, over and under the Property for ingress to, egress from and the installation, replacing, repairing and maintaining of all utility and service lines and systems including, but not limited to, water, sewer, gas, telephone, electricity, cable or communication lines and systems, such as utilities are installed in connection with the initial development of each Lot. Pursuant to this easement, a providing utility or service company may install and maintain facilities and equipment on the Lots and Common Areas and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of buildings thereon. Notwithstanding anything to the contrary contained in this section, no sewers, electrical lines, water lines, or other utility or sewer lines may be installed or relocated within the Property except by Declarant or as initially created or approved from time to time by Declarant, without the prior written approval of, in the case of a Common Area, the Association and the Architectural Committee or, in the case of a Lot, the Owner of such Lot and the Architectural Committee. Nothing contained herein shall entitle Declarant or any utility in exercising the rights granted herein to disturb any Residential Unit constructed in accordance with the requirements hereof. Declarant further reserves for itself and its assigns temporary construction easements for utility lines, maintenance of storage tanks and facilities and access to and from such facilities.

Section 9.4. Encroachments. The lots shall be subject to an easement for overhangs and encroachments by walls, fences or other structures upon adjacent lots as constructed by the original builder or as reconstructed or repaired in accordance with the original plans and specifications or as a result of the reasonable repair, shifting, settlement or movement of any such structure.

Section 9.5. Declarant's Easement. Easements over the lots for the installation and maintenance of electric, telephone cable, communications, water, gas, drainage and sanitary sewer or similar or other lines, pipes or facilities: (i) as shown on the recorded Plat or (ii) as may be hereafter reasonably necessary or desirable for Declarant to develop, construct, install or otherwise provide any service to any lot (provided, however, no utility other than a connection line to a Residential Unit served by the utility shall be installed in any area upon which a Residential

Unit has been or may legally be constructed on the lot) are hereby reserved by the Declarant, for itself, together with the right to grant and transfer the same.

Section 9.6. Easements to Facilitate Development. Declarant hereby reserves the right to: (a) use any Lots owned by or leased to Declarant, or any other Lot with written consent of the Owner thereof, and/or any portion of the Common Area, as models, management offices, sales offices, a visitors' center, construction, construction offices, customer service offices or sales office parking areas; and (b) to use any Lot owned by or leased to Declarant, or any other Lot with the consent of the Owner thereof, for placement of marketing, promotional or other signs which the Declarant deems necessary for the development, sale or lease of the Property.

Section 9.7. Dedications and Easements Required by Governmental Authority. Declarant hereby reserves to itself and its successors and assigns, the right to make any dedications and to grant any easements, rights-of-way and licenses required by any government or governmental agency over and through all or any portion of the Common Area.

Section 9.8. Duration of Development Rights; Assignment. The rights and easements reserved by or granted to the Declarant pursuant to this Article 9 shall continue so long as any Declarant owns one or more Lots or holds an option to purchase one or more Lots. Declarant may make limited temporary assignments of its easement rights under this Declaration to any person or entity performing construction, installation or maintenance on any portion of the Property.

Section 9.9. Easement for Maintenance and Enforcement. The Association and its directors, officers, agents, contractors and employees, the Architectural Review Committee and any other persons and entities authorized by the Board are hereby granted the right of access over and through any Lots (excluding the interior of any Residential Unit), for (i) the exercise and discharge of their respective powers and responsibilities under the Project Documents; (ii) making inspections in order to verify that all Improvements on the Lot have been constructed in accordance with the plans and specifications for such Improvements approved by the Architectural Committee and that all Improvements are being properly maintained as required by the Project Documents; (iii) correcting any condition originating in a Lot or in the Common Area threatening another Lot or the Common Area; (iv) performing installations or maintenance of utilities, landscaping or other improvements located on the Lots for which the Association is responsible for maintenance; or (v) correcting any condition which violates the Project Documents.

Section 9.10. Rights of Declarant. Notwithstanding any other provision of this Declaration to the contrary, the Declarant has the right to maintain construction trailers, model homes and sales offices on Lots owned or leased by such party and to construct and maintain parking areas for the purpose of accommodating persons visiting such construction trailers, model homes and sales offices and employees and contractors of such party.

ARTICLE X
COMMON AREA MAINTENANCE

Section 10.1. Maintenance by the Association. The Association shall be responsible for the maintenance, repair and replacement of the Common Area and may, without any approval of the Owners being required, do any of the following:

(A) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area);

(B) Construct, reconstruct, repair, replace or refinish any portion of the Common Area used as a road, street, walk, driveway and parking area;

(C) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

(D) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;

(E) Construct, maintain, repair and replace landscaped areas on any portion of the Common Area;

(F) Maintain any portion of the Common Area on which Stormwater Facilities are located; and

(G) Intentionally Omitted.

(H) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the appearance thereof, in accordance with the general purposes specified in this Declaration.

Declarant shall not be responsible for maintenance, repair or replacement of Common Areas or improvements thereon owned by the Association, provided, however, that any express or implied warranties provided by any provider of labor or materials in connection with improvements shall be deemed assigned to the Association when the Common Area is transferred to the Association. This paragraph shall not be subject to amendment without the written approval of the Declarant.

Section 10.2. Damage or Destruction of Common Area by Owners. No Owner shall in any way damage or destroy any Common Area or interfere with the activities of the Association in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner shall be assessed against (as an individual assessment) and paid by said Owner, upon demand, to the Association.

Section 10.3. Payment of Utility Charges. Each Lot shall be separately metered for water and electrical service and all charges for such services shall be the sole obligation and responsibility of the Owner of each Lot. The cost of water and electrical service and street lighting

to the Common Area shall be a Common Expense of the Association and shall be included in the budget of the Association.

Section 10.4. Intentionally Deleted.

Section 10.5. Landscaping Replacement. Landscaping originally planted on the Common Areas may exceed the landscaping that is ultimately planned for Common Areas due to over-planting in anticipation of normal plant losses. The Board is hereby granted the authority to remove and not replace dead or damaged landscaping if, in the reasonable discretion of the Board, (a) the remaining landscaping is acceptable to the Board and (b) the remaining landscaping is generally consistent in quality and quantity with the landscaping shown on approved landscaping plans filed with governmental entities in connection with Property, even if the location of specific plants is different than the locations shown on such approved landscaping plans. Neither Declarant nor any other installer of landscaping in Common Areas shall be responsible for replacement of landscaping that dies more than ninety days following installation or that requires replacement due to vandalism, lack of proper watering or maintenance by Association, or damage due to negligence; the Association shall be solely responsible for such replacement (subject to potential recovery by the Association from any vandal or negligent person).

Section 10.6. Alteration of Maintenance Procedures. Following the termination of the Class B membership and so long as Declarant owns any lot, the Association shall not, without the written approval of Declarant, alter or fail to follow the maintenance and repair procedures recommended by the Association's management company as of the termination of the Class B membership unless such alteration will provide for a higher level of maintenance and repair. Declarant shall have the right, but not the obligation, to perform any required maintenance or repair not performed by the Association within ten business days following notice from Declarant that such maintenance or repair is required under this section; if Declarant performs such maintenance or repair, the costs incurred by Declarant shall be reimbursed by the Association within thirty days following written demand for reimbursement accompanied by copies of invoices for such costs. This section shall not be subject to amendment without the written approval of the Declarant.

ARTICLE XI
INSURANCE

Section 11.1 Liability Insurance by Association. The Association shall maintain, to the extent reasonably available, liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas, and other portions of the Property upon which the Association is required to act. The liability insurance shall be for the benefit of the Owners, occupants, the Association, the Board, the managing agent, if any, the Declarant, and their respective officers, directors, members, managers, agents, and employees in such amounts and with such coverage that shall be determined by the Board; provided that such liability insurance shall be for at least One Million Dollars ($1,000,000.00) per occurrence for death, bodily injury, and property damage.

Section 11.2 Association to Obtain Casualty Insurance on Townhome Buildings. The Association shall obtain and maintain a casualty insurance policy or policies on all Townhome Buildings for the benefit of the Owners of the Residential Units therein and their mortgagees, as their interests may appear, and provisions shall be made for the issuance of certificates or mortgagee endorsements to Owners and to mortgagees of Owners upon request therefor by any Owner. Each Townhome Building shall be insured in an amount equal to one hundred percent (100%) of its insurable replacement value as determined annually by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against:

(a) Loss or damage by fire and other hazards, including extended overage, vandalism and malicious mischief, and

(b) such other risks as from time to time shall be reasonably required by the Association.

Section 11.3 Premiums and Deductibles. Premiums for all insurance policies purchased by the Association under this Declaration shall be Common Expenses and shall be included as part of the Assessments. Deductibles shall likewise be Common Expenses paid with Assessments.

Section 11.4 Proceeds. All insurance policies purchased by the Association for the benefit of Owners shall be for the benefit of the Owners and their mortgagees, as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee hereunder. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein or stated in the Bylaws and for the benefit of the Owners and their mortgagees as their interests may appear

Section 11.5 Distribution of Insurance Proceeds. Proceeds of insurance policies for the benefit of Owners that are received by the Association as insurance trustee shall be distributed in the following manner:

(a) Expense of the Trust. All expenses of the insurance trustee shall be first paid or provisions made therefore.

(b) Reconstruction or Repair. The remaining proceeds shall be paid to defray the cost of repairs to and/or reconstruction of the damaged/destroyed Common Area Improvements of Townhome Building(s). Any proceeds remaining after defraying such cost shall be held in undivided shares for the affected Owners in proportion to the costs of repairing the damage or injuries suffered by each Owner, the cost of which shall be determined by the Association.

Section 11.6. Owners to Obtain Insurance. Each Owner of a Residential Unit shall procure and maintain, at such Owner's sole cost and expense, insurance coverage as follows:

(a) Public Liability. Each Owner shall procure and maintain such public liability insurance over its Lot and Residential Unit as is appropriate, in each Owner's sole discretion.

(b) Contents. Each Owner shall procure and maintain insurance on the contents of its Residential Unit, with limits no less than the replacement value of such contents.

Section 11.7. Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary under deed of trust to whom certificates of insurance have been issued.

Section 11.8. Fidelity Bonds.

(A) The Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, but without limitation, officers, directors and employees of any management agent of the Association, whether or not they receive compensation for their services. The total amount of fidelity bond maintained by the Association shall be based upon the best business judgment of the Board, and shall not be less than the greater of (i) the amount equal to one hundred percent (100%) of the estimated annual operating expenses of the Association, (ii) the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond, (iii) the sum equal to three (3) months assessments on all Lots plus adequate reserve funds. Fidelity bonds obtained by the Association must also meet the following requirements:

(i) The fidelity bonds shall name the Association as an obligee;

(ii) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions;

(iii) The bonds shall provide that they may not be canceled or substantially modified (including cancellation from non-payment of premium) without at least ten (10) days prior written notice to the Association.

(B) The Association shall require any management agent of the Association to maintain its own fidelity bond in an amount equal to or greater than the amount of the fidelity bond to be maintained by the Association pursuant to subsection (A) of this section. The fidelity bond maintained by the management agent shall cover funds maintained in bank accounts of the management agent and need not name the Association as an obligee.

Section 11.9. Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area of Townhome Buildings damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) this Declaration is terminated, or (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (iii) Owners owning at least eighty percent (80%) of all Lots (as to damaged Common Area Improvements) vote not to rebuild, or Owners of one hundred percent (100%) of all Units in a damaged Townhome Building and their Mortgagees vote not to be rebuild; all subject to the Act. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be distributed in accordance with the provisions of §47F-3-113(g) of the Act. Notwithstanding the provisions of this subsection, §47F-2-118 of the Act governs the distribution of the insurance proceeds if this Declaration is terminated or if the Act trumps any inconsistent provisions herein.

ARTICLE XII
TERM AND ENFORCEMENT

Section 12.1. Enforcement. Subject to the provisions of Section 12.4 and of Article XIII, the Association, the Architectural Committee or any Owner shall have the right (but not the obligation) to enforce the Covenants and Restrictions in this Declaration and any amendment thereto. Failure by the Association, the Architectural Committee or any Owner to enforce the Covenants and Restrictions shall in no event be deemed a waiver of the right to do so thereafter. Deeds of conveyance of the Property may contain the Covenants and Restrictions by reference to this Declaration, but whether or not such reference is made in such deeds, each and all such Covenants and Restrictions shall be valid and binding upon the respective grantees. Violators of any one or more of the Covenants and Restrictions may be restrained by any court of competent jurisdiction and damages awarded against such violators, provided, however, that a violation of these Covenants and Restrictions or any one or more of them shall not affect the lien of any first mortgage or first deed of trust. If the Architectural Committee enforces any provision of the Project documents, the cost of the enforcement shall be paid by the Association. In addition to any enforcement rights otherwise available to the Association, the Association shall have the right to enforce any provision of this Declaration by directly taking action necessary to cure or remove a breach of this Declaration, including without limitation, removal, repair or replacement of any improvement, sign or landscaping on any portion of the Property; in such event, the Association shall be entitled to recover the costs incurred by the Association in connection with such cure. Pursuant to such cure/removal right of the Association, the Association or its authorized agents may, upon reasonable written notice (or immediately, for willful and recurrent violations, when written notice has previously been given), enter any Lot in which a violation of these restrictions exists and may correct such violation at the expense of the Owner of such Lot; the Association and its agents are hereby granted an easement for such purpose. Such expenses, and such fines as may be imposed pursuant to this Declaration, the Bylaws, or Association Rules, shall constitute and be secured by an Assessment Lien upon such Lot enforceable in accordance with the provisions of this Declaration. All remedies available at law or equity shall be available in the event of any breach of any provision of this section by any Owner, tenant or other person.

Section 12.2. Term. This Declaration shall remain in force and shall run with and bind the Property until terminated in accordance with §47F-2-118 of the Act.

Section 12.3. Amendment. Except as otherwise expressly provided herein, this Declaration may be amended or modified at any time by the vote or written consent of Owners having sixty-seven percent (67%) of the votes entitled to be cast in the Association; provided, however, that any amendment or modification to this Declaration must be consented to by Declarant so long as Declarant is Owner of any Lot or other portion of the Property, which consent Declarant may grant or withhold in its sole discretion. Without implication that a vote is required where it is not, any amendment pursuant to this Section 12.3 shall become effective when an instrument executed by the Owners voting for such amendment or modification is filed of record in the office of the Registry; provided, however, such an amendment or modification, in lieu of being executed by the Owners voting for such amendment or modification, may contain a certification of the Secretary of the Association stating that the amendment or modification has been voted on and approved by the requisite number of votes of the Owners, as provided in this Section 12.3. A properly executed and recorded amendment may alter the restrictions in whole or in part applicable to all or any portion of the Property and need not be uniform in application to the Property.

Notwithstanding the terms of the immediately preceding paragraph of this Section 12.3, until the termination of the Class B Membership, Declarant, without obtaining the approval of any Owner or Owners other than Declarant, shall have the unilateral right, in its sole and absolute discretion, to make any amendments or modifications hereto which Declarant deems necessary or desirable, including, without limitation, amendments or modifications to any procedural, administrative or substantive provisions of this Declaration.

Any action to challenge the validity of an amendment to this Declaration must be brought within one (1) year of the amendment's effective date. No action to challenge any such amendment may be brought after such time.

Section 12.4. Approval of Litigation. Except for any legal proceedings initiated by the Association to (i) enforce the use restrictions contained in this Declaration; (ii) enforce the Association Rules; (iii) enforce the Architectural Committee Rules; (iv) collect any unpaid Assessments levied pursuant to this Declaration, or (v) enforce a contract entered into by the Association with vendors providing services to the Association, the Association shall not incur litigation expenses, including without limitation, attorneys' fees and costs, where the Association initiates legal proceedings or is joined as a plaintiff in legal proceedings, without the prior approval of a majority of the Members of the Association entitled to cast a vote who are voting in person or by proxy at a meeting duly called for such purpose, excluding the vote of any Owner who would be a defendant in such proceedings. The costs of any legal proceedings initiated by the Association which are not included in the above exceptions shall be financed by the Association only with monies that are collected for that purpose by special assessment and the Association shall not borrow money, use reserve funds, or use monies collected for other Association obligations. Each Owner shall notify prospective Purchasers of such legal proceedings initiated by the Board and not included in the above exceptions and must provide such prospective Purchasers with a copy of the notice received from the Association in accordance with Section 13.3 of this Declaration. Nothing in this section shall preclude the Board from incurring expenses for legal advice in the

normal course of operating the Association to (i) enforce the Project Documents; (ii) comply with the statutes or regulations related to the operation of the Association; (iii) amend the Project Documents as provided in this Declaration; (iv) grant easements or convey Common Area as provided in this Declaration or (v) perform the obligations of the Association as provided in this Declaration. Subject to the exceptions in the first sentence of this section, with respect to matters involving property or improvements to property, the Association (or Board of Directors) additionally shall not initiate legal proceedings or join as a plaintiff in legal proceedings unless (1) such property or improvement is owned either by the Association or jointly by all Members of the Association, (2) the Association has the maintenance responsibility for such property or improvements pursuant to this Declaration, or (3) the Owner who owns such property or improvements consents in writing to the Association initiating or joining such legal proceeding.

Section 12.5. Annexation of Additional Property. Until the later of (a) fifteen (15) years following recordation of this Declaration or (b) termination of the Class B Membership, and thereafter with the approval of the Board, Declarant shall have the right, from time to time or at any time, in its sole discretion and without the consent of any person (other than consent of the owner of the property being annexed), to annex and bring under the encumbrance of the Project Documents: i) any of that property described on Exhibit B as "Additional Property" and ii) any other real property that is adjacent to any real property that is then subject to this Declaration; property shall be deemed adjacent if contiguous at any point or if separated only by a street, alley, right-of-way or easement. Annexation shall be effective upon recordation by Declarant of a signed and acknowledged declaration of annexation in the Registry stating that such adjacent real property has been annexed to this Declaration; no consent or approval of such annexation by the Board of Directors or Members of the Association shall be necessary for an annexation by Declarant. Upon annexation, the annexed real property shall be deemed to be part of the "Property" and shall have the same rights, privileges and obligations as the Property originally subject to the terms of this Declaration, including membership in the Association, except that such rights, privileges and obligations shall not include matters arising or accruing prior to annexation; annual assessments shall be prorated for annexed property through the date of annexation.

Section 12.6. De-Annexation of Property. Until the later of (a) fifteen (15) years following recordation of this Declaration or (b) termination of the Class B Membership, Declarant shall have the right, from time to time or at any time, in its sole discretion and without the consent of any person (other than consent of the owner of the property being de-annexed), to delete from the Property and remove from the effect of this Declaration, one or more portions of the Property, provided, however, that a portion of the Property may not be deleted from this Declaration unless at the time of such deletion and removal no Residential Units or material Common Area improvements have been constructed thereon (unless the de-annexation is for the purpose of accomplishing minor adjustments to the boundaries of Lots or the Property). No deletion of Property shall occur if such deletion would act to terminate access to any right-of-way or utility line unless reasonable alternative provisions are made for such access. No deletion of Property shall affect the Assessment Lien on the deleted Property for Assessments accruing prior to deletion. Any deletion of Property hereunder shall be made by Declarant recording a notice thereof.

ARTICLE XIII
CLAIM AND DISPUTE RESOLUTION/LEGAL ACTIONS

It is intended that the Common Area, each Lot, and all Improvements constructed on the Property by persons or entities, including Declarant, (all together "Developers"), in the business of constructing improvements will be constructed in compliance with all applicable building codes and ordinances and that all Improvements will be of a quality that is consistent with the good construction and development practices in the area where the Project is located for production housing similar to that constructed within the Project. Nevertheless, due to the complex nature of construction and the subjectivity involved in evaluating such quality, disputes may arise as to whether a defect exists and the responsibility therefor. It is intended that all disputes and claims regarding alleged defects in any design or construction of Improvements on any Common Area or on any area (an "area of Association responsibility") for which the Association otherwise has insurance, maintenance, repair or replacement responsibility (individually or together, and not including any disputes or claims regarding any other on-Lot Improvements (including Residential Units), the "Alleged Defects"), will be resolved amicably, without the necessity of time-consuming and costly litigation. Accordingly, all Developers, Declarant, the Association, the Board, and all Owners shall be bound by the following claim resolution procedures.

Section 13.1. Right to Cure Alleged Defect. If a person or entity ("Claimant") claims, contends, or alleges an Alleged Defect, each Developer shall have the right to inspect, repair and/or replace such Alleged Defect as set forth herein.

Section 13.1.1. Notice of Alleged Defect. If a Claimant discovers an Alleged Defect, then, within fifteen (15) days after discovery thereof, Claimant shall give written notice of the Alleged Defect ("Notice of Alleged Defect") to the Developer constructing the Improvement with respect to which the Alleged Defect relates.

Section 13.1.2. Right to Enter, Inspect, Repair and/or Replace. Within a reasonable time after the receipt by a Developer of a Notice of Alleged Defect, or the independent discovery of any Alleged Defect by a Developer, Developer shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into the Common Area, areas of Association responsibility, any Lot or Residential Unit, and/or any Improvements for the purposes of inspecting and/or conducting testing and, if deemed necessary by Developer at its sole discretion, repairing and/or replacing such Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, Developer shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

Section 13.2. No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Article shall be construed to impose any obligation on a Developer to inspect, test, repair, or replace any item or Alleged Defect for which such Developer is not otherwise obligated under applicable law or any warranty provided by such Developer in connection with the sale of the Lots and Residential Units and/or the Improvements constructed thereon. The right reserved to Developer to enter, inspect, test, repair and/or replace an Alleged Defect shall be irrevocable and may not be waived or otherwise terminated with regard to a Developer except by a written document executed by such Developer and recorded in the Registry.

Section 13.3. Legal Actions. All legal actions initiated by a Claimant shall be brought in accordance with and subject to Section 13.4 and Section 12.4 of this Declaration. If a Claimant initiates any legal action, cause of action, regulatory action, proceeding, reference, mediation, or arbitration against a Developer alleging (1) damages for costs of repairing Alleged Defect ("Alleged Defect Costs"), (2) for the diminution in value of any real or personal property resulting from such Alleged Defect, or (3) for any consequential damages resulting from such Alleged Defect, any judgment or award in connection therewith shall first be used to correct and or repair such Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect. If the Association as a Claimant recovers any funds from a Developer (or any other person or entity) to repair an Alleged Defect, any excess funds remaining after repair of such Alleged Defect shall be paid in to the Association's reserve fund. If the Association is a Claimant, the Association must provide a written notice to all Members prior to initiation of any legal action, regulatory action, cause of action, proceeding, reference, mediation or arbitration against a Developer(s) which notice shall include at a minimum (1) a description of the Alleged Defect; (2) a description of the attempts of the Developer(s) to correct such Alleged Defect and the opportunities provided to the Developer(s) to correct such Alleged Defect; (3) a certification from an architect or engineer licensed in the State of North Carolina that such Alleged Defect exists along with a description of the scope of work necessary to cure such Alleged Defect and a resume of such architect or engineer; (4) the estimated Alleged Defect Costs; (5) the name and professional background of the attorney retained by the Association to pursue the claim against the Developer(s) and a description of the relationship between such attorney and member(s) of the Board or the Association's management company (if any); (6) a description of the fee arrangement between such attorney and the Association; (7) the estimated attorneys' fees and expert fees and costs necessary to pursue the claim against the Developer(s) and the source of the funds which will be used to pay such fees and expenses; (8) the estimated time necessary to conclude the action against the Developer(s); and (9) an affirmative statement from a majority of the members of the Board that the action is in the best interests of the Association and its Members.

Section 13.4. Alternative Dispute Resolution. Any dispute or claim between or among (a) a Developer (or its brokers, agents, consultants, contractors, subcontractors, or employees) on the one hand, and any Owner(s) or the Association on the other hand; or (b) any Owner and another Owner; or (c) the Association and any Owner regarding any controversy or claim between the parties, including any claim based on contract, tort, or statute, arising out of or relating to (i) the rights or duties of the parties under this Declaration; or (ii) an Alleged Defect, but excluding disputes relating to the payment of any type of Assessment (collectively a "Dispute"), shall be subject first to negotiation, then mediation, and then arbitration as set forth in this Section 13.4 prior to any party to the Dispute instituting litigation with regard to the Dispute.

Section 13.4.1. Negotiation. Each party to a Dispute shall make every reasonable effort to meet in person and confer for the purpose of resolving a Dispute by good faith negotiation. Upon receipt of a written request from any party to the Dispute, the Board may appoint a representative to assist the parties in resolving the dispute by negotiation, if in its discretion the Board believes its efforts will be beneficial to the parties and to the welfare of the community. Each party to the Dispute shall bear their own attorneys' fees and costs in connection with such negotiation.

Section 13.4.2. Mediation. If the parties cannot resolve their Dispute pursuant to the procedures described in Subsection 13.4.1 above within such time period as may be agreed upon by such parties (the "Termination of Negotiations"), the party instituting the Dispute (the "Disputing Part") shall have thirty (30) days after the termination of negotiations within which to submit the Dispute to mediation pursuant to the mediation procedures adopted by the American Arbitration Association or any successor thereto or to any other independent entity providing similar services upon which the parties to the Dispute may mutually agree. No person shall serve as a mediator in any Dispute in which such person has a financial or personal interest in the result of the mediation, except by the written consent of all parties to the Dispute. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. If the Disputing Party does not submit the Dispute to mediation within thirty days after Termination of Negotiations, the Disputing Party shall be deemed to have waived any claims related to the Dispute and all other parties to the Dispute shall be released and discharged from any and all liability to the Disputing Party on account of such Dispute; provided, nothing herein shall release or discharge such party or parties from any liability to persons or entities not a party to the foregoing proceedings.

Section 13.4.2.1. Position Memoranda; Pre-Mediation Conference. Within ten (10) days of the selection of the mediator, each party to the Dispute shall submit a brief memorandum setting forth its position with regard to the issues to be resolved. The mediator shall have the right to schedule a pre-mediation conference and all parties to the Dispute shall attend unless otherwise agreed. The mediation shall commence within ten (10) days following submittal of the memoranda to the mediator and shall conclude within fifteen (15) days from the commencement of the mediation unless the parties to the Dispute mutually agree to extend the mediation period. The mediation shall be held in the County where the property is located or such other place as is mutually acceptable by the parties to the Dispute.

Section 13.4.2.2. Conduct of Mediation. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the Dispute. The mediator is authorized to conduct joint and separate meetings with the parties to the Dispute and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain expert advice concerning technical aspects of the dispute, provided the parties to the Dispute agree to obtain and assume the expenses of obtaining such advice as provided in Subsection 13.4.2.5 below. The mediator does not have the authority to impose a settlement on any party to the Dispute.

Section 13.4.2.3. Exclusion Agreement. Any admissions, offers of compromise or settlement negotiations or communications at the mediation shall be excluded in any subsequent dispute resolution forum.

Section 13.4.2.4. Parties Permitted at Sessions. Persons other than the parties to the Dispute may attend mediation sessions only with the permission of all parties to the Dispute and the consent of the mediator. Confidential information disclosed to a mediator by the parties to the Dispute or by witnesses in the course of the mediation shall be kept confidential. There shall be no stenographic record of the mediation process.

Section 13.4.2.5. Expenses of Mediation. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including, but not limited to, the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any proof of expert advice produced at the direct request of the mediator, shall be borne equally by the parties to the Dispute unless agreed to otherwise. Each party to the Dispute shall bear their own attorneys' fees and costs in connection with such mediation.

Section 13.4.3. Final and Binding Arbitration. If the parties cannot resolve their Dispute pursuant to the procedures described in Subsection 13.4.2 above, the Disputing Party shall have thirty (30) days following termination of mediation proceedings (as determined by the mediator) to submit the Dispute to final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as modified or as otherwise provided in this Section 13.4. If the Disputing Party does not submit the Dispute to arbitration within thirty days after termination of mediation proceedings, the Disputing Party shall be deemed to have waived any claims related to the Dispute and all other parties to the Dispute shall be released and discharged from any and all liability to the Disputing Party on account of such Dispute; provided, nothing herein shall release or discharge such party or parties from any liability to a person or entity not a party to the foregoing proceedings.

The existing parties to the Dispute shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the arbitration proceeding. No Developer shall be required to participate in the arbitration proceeding if all parties against whom a Developer would have necessary or permissive cross-claims or counterclaims are not or cannot be joined in the arbitration proceedings. Subject to the limitations imposed in this Section 13.4, the arbitrator shall have the authority to try all issues, whether of fact or law.

Section 13.4.3.1. Place. The arbitration proceedings shall be heard in the County where the Property is located.

Section 13.4.3.2. Arbitration. A single arbitrator shall be selected in accordance with the rules of the American Arbitration Association from panels maintained by the American Arbitration Association with experience in relevant matters which are the subject of the Dispute. The arbitrator shall not have any relationship to the parties or interest in the Project. The parties to the Dispute shall meet to select the arbitrator within ten (10) days after service of the initial complaint on all defendants named therein.

Section 13.4.3.3. Commencement and Timing of Proceeding. The arbitrator shall promptly commence the arbitration proceeding at the earliest convenient date in light of all of the facts and circumstances and shall conduct the proceeding without undue delay.

Section 13.4.3.4. Pre-hearing Conferences. The arbitrator may require one or more pre-hearing conferences.

Section 13.4.3.5. Discovery. The parties to the Dispute shall be entitled to limited discovery only, consisting of the exchange between the parties of the following matters: (i) witness lists; (ii) expert witness designations; (iii) expert witness reports; (iv) exhibits; (v)

reports of testing or inspections of the property subject to the Dispute, including but not limited to, destructive or invasive testing; and (vi) trial briefs. The Developer shall also be entitled to conduct further tests and inspections as provided in Section 13.1 above. Any other discovery shall be permitted by the arbitrator upon a showing of good cause or based on the mutual agreement of the parties to the Dispute. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

Section 13.4.3.6. Limitation on Remedies/Prohibition on the Award of Punitive Damages. Notwithstanding contrary provisions of the Commercial Arbitration Rules, the arbitrator in any proceeding shall not have the power to award punitive or consequential damages; however, the arbitrator shall have the power to grant all other legal and equitable remedies and award compensatory damages. The arbitrator's award may be enforced as provided for in the Uniform Arbitration Act, NCGS §1-569, et seq., or such similar law governing enforcement of awards in a trial court as is applicable in the jurisdiction in which the arbitration is held.

Section 13.4.3.7. Motions. The arbitrator shall have the power to hear and dispose or motions, including motions to dismiss, motions for judgment on the pleadings, and summary judgment motions, in the same manner as a trial court judge, except the arbitrator shall also have the power to adjudicate summary issues of fact or law including the availability of remedies, whether or not the issue adjudicated could dispose of an entire cause of action or defense.

Section 13.4.3.8. Expenses of Arbitration. Each party to the Dispute shall bear all of its own costs incurred prior to and during the arbitration proceedings, including the fees and costs of its attorneys or other representatives, discovery costs, and expenses of witnesses produced by such party. Each party to the Dispute shall share equally all charges rendered by the arbitrator unless otherwise agreed to by the parties.

Section 13.5. Statute of Limitations. Nothing in this Article shall be considered to toll, stay, or extend any applicable statute of limitations.

Section 13.6. Enforcement of Resolution. If the parties to a Dispute resolve such Dispute through negotiation or mediation in accordance with Subsection 13.4.1 or Subsection 13.4.2 above, and any party thereafter fails to abide by the terms of such negotiation or mediation, or if an arbitration award is made in accordance with Subsection 13.4.3 and any party to the Dispute thereafter fails to comply with such resolution or award, then the other party to the Dispute may file suit or initiate administrative proceedings to enforce the terms of such negotiation, mediation, or award without the need to again comply with the procedures set forth in this Article. In such event, the party taking action to enforce the terms of the negotiation, mediation, or the award shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties pro rata), all costs incurred to enforce the terms of the negotiation, mediation or award including, without limitation, attorney's fees and court costs.

ARTICLE XIV
PARTY WALLS

Section 14.1. Definition. Each wall separating two Residential Units as a part of the original construction of the same, and any replacement thereof, shall constitute a "party wall" for purposes of this Article.

Section 14.2. General Law. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to all party walls.

Section 14.3. Encroachment. If any party wall protrudes or encroaches over an adjoining Lot or Residential Unit or into any Common Area, such structure, wall, or fence shall be deemed to be a permitted encroachment upon the adjoining Lot, Residential Unit or Common Area, and the Owners and the Association shall neither maintain any action for the removal of the encroaching structure, wall, or fence, nor any action for damages. In the case of such a protrusion, it shall be deemed that the affected Owners or the Association have granted perpetual easements to the adjoining/encroaching Owner for continuing maintenance and use of the encroaching party wall. The foregoing provision shall also apply to any replacements in conformance with the original party wall as originally constructed.

Section 14.4. Sharing of Repair and Maintenance. The cost of replacement, repair, and maintenance of a party wall shall be equally divided by the Owners which share the wall, except that (i) if the damage necessitating the replacement, repair, or maintenance is covered under the terms of any fire or casualty insurance policy maintained by the Association, the proceeds of such policy shall first be used to effect such replacement, repair, and maintenance; and (ii) if the portion of the wall which requires the replacement, repair, or maintenance is an outside wall for one of the Residential Units but not for the other (that is, not common to both Residential Unit) the replacement, repair, or maintenance cost of that portion of the wall shall be borne by the Owner of the Residential Unit utilizing that portion of the wall, if, and to the extent that, the Association does not have that responsibility.

Section 14.5. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty or requires replacement, repair, or maintenance in excess of the benefits payable under any fire or casualty insurance policy maintained by the Association, and one of the common Owners of the wall repairs, replaces, or performs necessary maintenance work, the other common Owner shall promptly reimburse the Owner who effects the work in an amount equal to one-half of the cost thereof; provided that this obligation shall not be absolute, but shall be subject to the general rules of law regarding negligence and wrongful acts.

Section 14.6. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 14.7. Easement and Right of Entry for Repair, Maintenance and Reconstruction. Every Owner shall have an easement and right of entry upon the Lot and

Residential Unit of any other Owner to the extent reasonably necessary to perform repair, maintenance, or reconstruction of a party wall. Such repair, maintenance, or construction shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Lot or Lots and Residential Unit(s)to as near the same condition as that which prevailed prior to the commencement of the work as possible.

ARTICLE XV
GENERAL PROVISIONS

Section 15.1. Severability. Invalidation of any terms, conditions, covenants, conditions, restrictions or other provisions of the Declaration (or portions thereof) shall not affect the validity of the any other terms, conditions, covenants, conditions, restrictions or other provisions of the Declaration (or portions thereof), all of which shall remain in full force and effect.

Section 15.2. Construction. The Article and section headings have been inserted for convenience only and shall not be considered in resolving questions of interpretation or construction. All terms and words used in this Declaration regardless of the number and gender in which they are used shall be deemed and construed to include any other number, and any other gender, as the context or sense requires. In the event of any conflict or inconsistency between this Declaration, the Articles, and/or the Bylaws, the provisions of this Declaration shall control over the provision of the Articles and the Bylaws and the provisions of the Articles shall prevail over the provisions of the Bylaws.

Section 15.3. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail, postage prepaid; if to an Owner, addressed to that Owner at the address of the Owner's lot or if to the Architectural Committee, addressed to that Committee at the normal business address. If notice is sent by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of the same has been deposited in the United States mail, postage pre-paid. If personally delivered, notice shall be effective on receipt. Notwithstanding the foregoing, if application for approval, plans, specifications and any other communication or documents shall not be deemed to have been submitted to the Architectural Committee, unless actually received by said Committee. Any vote, election, consent or approval of any nature by the Owners or the Board of Directors, whether hereunder or for any other purpose, may, in the discretion of the Board of Directors and in lieu of a meeting of members, be held by a mail-in ballot process pursuant to such reasonable rules as the Board may specify.

Section 15.4. Intentionally Omitted.

Section 15.1. Intentionally Omitted.

Section 15.2. Restriction of Traffic. Declarant reserves the right, until the conveyance of title to Purchaser of the last Residential Unit in the Property, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Property, in Declarant's sole discretion, to accommodate Declarant's development construction activities, and sales and marketing activities; provided that no Residential Unit shall be deprived of access to a dedicated street adjacent to the Property.

Section 15.3. Other Rights. Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, and, to the extent not expressly prohibited by applicable North Carolina law, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under applicable North Carolina law, including, without limitation, all special declarant rights under the Act.

Section 15.4. Disclaimers and Releases. By acceptance of a deed to a Residential Unit, each purchaser or Owner, for itself and all persons claiming under such purchaser or Owner, shall conclusively be deemed to have acknowledged and agreed: (a) that Declarant specifically disclaims any and all representations and warranties, express and implied, with regard to any of the disclosed or described matters (other than to the extent expressly set forth in the foregoing disclosures); and (b) to fully and unconditionally release Declarant and the Association, and their respective officers, managers, agents, employees, suppliers and contractors, and their successors and assigns, from any and all loss, damage or liability (including, but not limited to, any claim for nuisance or health hazards) related to or arising in connection with any disturbance, inconvenience, injury, or damage resulting from or pertaining to all and/or any one or more of the conditions, activities, occurrences described herein.

ARTICLE XVI
SPECIAL PROVISIONS

Section 16.1. Future Development. Declarant presently plans to develop only those Lots which have already been released for construction and sale, and Declarant has no obligation with respect to future phases, plans, zoning, or development of other real property contiguous to or nearby the Lots presently planned for development. The Owner of a Residential Unit may have seen proposed or contemplated residential and other developments which may have been illustrated in the plot plan or other sales literature in or from Declarant's sales office, and/or may have been advised of the same in discussions with sales personnel; however, notwithstanding such plot plans, sales literature, or discussions or representations by sales personnel or otherwise, Declarant is under no obligation to construct such future or planned developments, amenities or units, and the same may not be built in the event that Declarant, for any reason whatsoever, decides not to build same. An Owner is not entitled to rely upon, and in fact has not relied upon, the presumption or belief that the same will be built; and no sales personnel or any other person in any way associated with Declarant has any authority to make any statement contrary to the foregoing provisions.

Section 16.2. Construction Nuisances. Residential subdivision and new home construction are subject to and accompanied by substantial levels of noise, dust, traffic, and other construction-related "nuisances." Each Owner acknowledges and agrees that it is purchasing a Residential Unit which is within a residential subdivision currently being developed, and that the Owner will experience and accepts substantial level of construction-related "nuisances" until the subdivision (and other neighboring portions of land being developed) have been completed and sold out.

Section 16.3. Model Homes. Model homes are displayed for illustrative purposes only, and such display shall not constitute an agreement or commitment on the part of Declarant or any Builder to deliver the Residential Unit in conformity with any model home, and

any representation or inference to the contrary is hereby expressly disclaimed. None of the decorator items and other items or furnishings (including, but not limited to, decorator paint colors, wallpaper, window treatments, mirrors, upgraded carpet, decorator built-ins, model home furniture, model home landscaping, and the like) shown installed or on display in any model home are included for sale to a purchaser unless an authorized officer of Declarant or any Builder (as the case may be) Builder has specifically agreed in a written addendum to the purchase agreement to make specific items a part of the purchase agreement.

Section 16.4. VA/FHA. In the event that any Owner hereafter finances its Residential Unit through a loan guaranteed or insured by the VA or the FHA or Residential Units within the Property are approved by the VA or the FHA as being eligible for such loans, then, until all Class II Membership ceases to exist and be converted to Class I Membership, and if and only if required by the VA or the FHA, the approval of either the VA or the FHA shall be obtained prior to: (i) the annexation of additional property to the Property subject to this Declaration, (ii) dedication of additional Common Area other than the Common Area designated on existing plats of the Property, and (iii) amendment of this Declaration.

Section 16.5. Stormwater Facilities.

(A) Stormwater Facilities. In accordance with the requirements of the governing authorities one or more Stormwater Facilities may be located on a portion of the Common Area. The operation and maintenance of the Stormwater Facilities are subject to the terms of the Stormwater Facility Agreements. Upon conveyance of the Common Area to the Association, the Association shall operate and maintain the Stormwater Facilities.

(B) Expenditure Priority. To the extent not inconsistent with other applicable legal requirements, the Association's obligations under the Stormwater Facility Agreements shall receive the highest priority for expenditures with the exception of expenditures for (i) assessments levied by the local governmental authorities (ii) ad valorem property taxes (iii) liability and hazard insurance required to be maintained by the Association (iv) any other expenditures which are required by law to have a higher priority.

(C) Reconstruction and Repair Fund. The Association shall maintain a Major Reconstruction Fund for the reconstruction and repair of the Stormwater Facilities, which shall be separate from the fund for the routine maintenance of the Stormwater Facilities. The reconstruction and repair fund shall be listed as a separate line in the Association's budget and shall be kept in an account insured by the Federal Deposit Insurance Corporation or by another entity acceptable to the Board. The funds in the reconstruction and repair account shall not be commingled with any of the Association's other funds.

(D) Dissolution and Transfer. Notwithstanding any provision to the contrary contained in the Declaration and to the extent permitted by applicable law, the Association shall not enter into voluntary dissolution unless the Stormwater Facilities located on Common Area are transferred to a person or entity who assumes the maintenance obligation of the Stormwater Facilities as set forth in the Stormwater Facility Agreements, and, to the extent permitted by applicable law, the Association shall not sell, convey or otherwise transfer any interest in the Common Area on which the Stormwater Facilities are located to any party unless the transferee

assumes the maintenance obligation of the Stormwater Facilities as set forth in the Stormwater Facility Agreements.

(E) Easement to the Governing Authorities. Declarant hereby grants to the applicable governing authorities an easement for ingress, egress and regress over and across the Common Area on which the Stormwater Facilities exist for the purpose of inspecting the Stormwater Facilities as necessary and for the purpose of correcting, repairing, replacing, and maintaining the Stormwater Facilities and exercising the other rights of the such governing authorities that are provided for by the Stormwater Facility Agreements.

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IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year below indicated.

DECLARANT:

Grandfather Homes, Inc., a North Carolina corporation

By: [signature]

Name: MATTHEW T. EWERS

As: PRESIDENT

Date: 3-29-18

MECKLENBURG COUNTY

NORTH CAROLINA

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: MATTHEW T. EWERS
name of person signing

Date: 29 MAR 2018

[signature]
Notary Public

My Commission Expires: 10-20-2018

Print Name: Robert C. Williams III

[Affix Notary Stamp or Seal below]

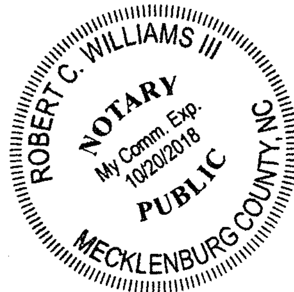

EXHIBIT A

LEGAL DESCRIPTION

All of that real property lying and being situate in Mecklenburg County, North Carolina, shown on that certain plat entitled "Final Plat The Towers at Mattie Rose," and recorded in Deed Book 61, at Page 992 in the Office of the Register of Deeds for Mecklenburg County, North Carolina, reference being made thereto for a more complete description.

EXHIBIT B
LEGAL DESCRIPTION OF ADDITIONAL PROPERTY

Any real Property having a property line that is not greater than 500 feet from any boundary line of the Property described on Exhibit A above.

4838-5123-5895, v. 2