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**FILED
WILKES COUNTY
RICHARD L. WOODRUFF
REGISTER OF DEEDS**

FILED	Aug 01, 2008
AT	03:31:23 pm
BOOK	01076
PAGE	0082
INSTRUMENT #	06969

STATE OF NORTH CAROLINA

COUNTY OF WILKES

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
EASEMENTS, AND LIENS FOR THE TIMBER RIDGE COMMUNITY

DRAWN BY: JOHN MORE

RETURN TO: GERDES, MASON AND SIMPSON, LLP
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CHARLOTTE, NC 28230

NOTICE TO CLOSING ATTORNEYS:
THIS DECLARATION IMPOSES ASSESSMENTS CONSTITUTING A LIEN ON EACH LOT IN THE SUBDIVISION. PLEASE CONTACT THE ASSOCIATION TO DETERMINE THE STATUS OF A PARTICULAR LOT WITH REGARD TO PAYMENT OF ASSESSMENTS. THE ASSOCIATION'S CONTACT INFORMATION MAY BE FOUND ON THE SECRETARY OF STATE'S WEBSITE.

STATE OF NORTH CAROLINA) DECLARATION OF COVENANTS, CONDITIONS,
COUNTY OF WILKES) RESTRICTIONS, EASEMENTS, AND LIENS FOR
) THE **TIMBER RIDGE** COMMUNITY

THIS Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for the **TIMBER RIDGE COMMUNITY** (hereinafter "Declaration") is made this 1 day of APRIL, 2008, by **WILKES MOUNTAIN DEVELOPMENT COMPANY, LLC**, a limited liability company organized and existing under the laws of the State of North Carolina (the "Developer," as further defined in Article I herein), and as to the owners of the Exhibit "A" real property which is subjected to this Declaration, by the instruments of Joinder and Consent attached hereto as **Exhibit "B"**, which are also made a part of this Declaration.

RECITALS

1. The Developer, desires to develop on the real property described in Exhibit "A" of this Declaration, a single-family residential Community to include common lands and facilities, for the sole use and benefit of the Owner of each Lot to be located within the Community.
2. The Developer may desire from time to time to develop additional real property, adjacent or in close proximity to the within described Exhibit "A" property, as additional phases of the within described Community, and if so, the Developer may incorporate such real property as additional phases of the Community and bring same under this Declaration.
3. The Developer is desirous of maintaining control of design criteria, Structure location, Plans and construction specifications, and other controls to assure the integrity of the Community or each Neighborhood, if and when designated, within the Community. Each



purchaser of a Lot or Dwelling in the Community will be required to maintain, modify, change, and construct the Dwelling and any Structure in accordance with the design criteria contained herein and established by the Developer or Architectural Control Authority, When Empowered, as hereinafter provided.

4. The Developer desires to provide for the preservation of the value and amenities in such Community and for the maintenance of such common lands and facilities, if any.

5. The Developer and the Property Owners of the Exhibit "A" property, by the instrument of Joinder and Consent attached in Exhibit "B" hereto, desire to subject the real property described in Exhibit "A" to the covenants, conditions, restrictions, easements, charges, and liens, hereinafter set forth and to the guidelines, policies, procedures, rules and regulations adopted by the Developer or the Association, When Empowered, for each Neighborhood, if and when designated, or the Community as a whole. Each and all of which is and are (i) binding upon the Community and each Owner, (ii) for the sole benefit of the Developer for so long as it owns any portion of the Property, and thereafter for the sole benefit of the Association, and (iii) shall run with the title to the land.

6. The Developer has deemed it desirable, for the efficient preservation of the values and the amenities in the Community, to create the Association to which will be delegated and assigned as further described herein, the powers of maintaining and administering any Common Area, of administering and enforcing the Declaration; of establishing and amending the reasonable rules, regulations and policies for the proper management of the Association and for the promotion of the health, safety and welfare of the residents of the Community; and of levying, collecting and disbursing the Assessments and charges hereinafter created. The Developer may assign or delegate, either permanently or temporarily, any or all of the foregoing powers to one or more entities or persons without notice to or the consent of any Owner.

7. The Developer has caused or will cause the Association to be incorporated under the laws of the State of North Carolina, as a nonprofit corporation, for the purpose of exercising the aforesaid functions, among others.

NOW, THEREFORE, The Developer, and those individuals, companies, and entities joining therein by the instruments of Joinder and Consent made a part of Exhibit "B" hereto, jointly and severally declare that the real property described in Exhibit "A", annexed hereto and forming a part hereof, and any additions thereto which the Developer may incorporate from time to time in the Community is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth which shall run with the title to the Property and all Lots therein and which shall be binding on all Owners.

ARTICLE I



DEFINITIONS

Section 1. DEFINITIONS. The following capitalized words when used in this Declaration, any Supplement, or any Supplemental Declaration (unless the context shall prohibit) shall have the following meaning:

(A) “ADDITIONAL ASSOCIATIONS” when and if created, shall mean and refer to any other separate association owning land within the Property, or being given authority to control, manage or maintain portions of the Property owned or maintained by the Association.

(B) “ARCHITECTURAL CONTROL AUTHORITY” shall mean and refer to any appointees of the Developer, or boards appointed by the Developer, while the Developer retains all or part of the rights and authority for architectural control in the Community, and the Board of Directors of the Association, When Empowered or architectural control boards appointed by the Board of Directors of the Association, When Empowered.

(C) “ARCHITECTURAL GUIDELINES” shall mean and refer to the set of policies, rules and procedures which may be promulgated and/or amended by the Developer or the Architectural Control Authority, When Empowered, from time to time, which shall act as a guide for the architectural control and review process and for the maintenance, construction or renovation of Structures in each Neighborhood, if and when designated, and within the Community. Failure to publish any Architectural Guidelines shall not diminish the architectural control and review authority of the Developer or the Architectural Control Authority, When Empowered, as set forth in this Declaration.

(D) “AREA OF EXTENDED LOT OWNER RESPONSIBILITY” shall mean and refer to that portion of the road right-of-way, whether owned by the Developer, the Association, or any applicable governmental entity, extending from the edge of a road’s pavement to any property line of a Lot that is contiguous to the road. Unless designated as Common Area or unless an election is made by the Board of Directors for the Association to provide maintenance to such area(s), each Owner shall be responsible for the maintenance and proper use of their corresponding Area of Extended Lot Owner Responsibility pursuant to the provisions of this Declaration, including without limitation obtaining appropriate Architectural Control Authority approvals, in addition to any other applicable governmental approvals, that may be required for any and all Structures and landscaping built upon or located in the Area of Extended Lot Owner Responsibility. All remedies available to the Developer and the Association, When Empowered, for the failure of an Owner to properly maintain, use, or construct or locate Structures upon a Lot shall also be available to the Developer and the Association, When Empowered, for the failure of an Owner to properly maintain, use, or construct or locate Structures upon the Area of Extended Lot Owner Responsibility, as provided for in this Declaration. Said authority of the Developer and the Association, When Empowered, to control the Areas of Extended Lot Owner



Responsibility is subordinate to the authority and approval of any property owner or applicable governmental entity possessing rights over or ownership of the Areas of Extended Lot Owner Responsibility.

(E) "ASSESSMENTS" shall have the meaning specified in Article VI.

(F) "ASSOCIATION" shall mean and refer to the Timber Ridge Homeowners Association, Inc., its successors and assigns.

(G) "BOARD" OR "BOARD OF DIRECTORS" shall mean and refer to the members of the board of directors of the Association whether elected or appointed.

(H) "BY-LAWS" shall mean and refer to the by-laws of the Association.

(I) "COMMON AREA" shall mean and refer to those areas of land within the Property, the location and dimensions of which may be established, modified, or adjusted by the Developer as long as it owns a Lot in the Community, shown as "Common Area" on any recorded plat of the Property or so designated in any conveyance to the Association by the Developer including, but not limited to, any and all Structures thereon or the furniture, fixtures or equipment thereon, entrance signs, lights, sprinklers, shrubs, landscaping, parking places, drainage or other easements used, owned or maintained by the Association or the Developer for the benefit of the Community, whether or not located within the street right-of-ways which have been dedicated to a governmental agency or a Lot. Such areas are intended to be devoted to the common use and enjoyment of Members of the Association, subject to the Regulations established and amended from time to time by the Developer or the Board of Directors of the Association, When Empowered. NO REPRESENTATION FROM ANY PARTY OR SALES AGENT, INCLUDING THOSE OF THE DEVELOPER, OR OTHER ENTITY AS TO THE EXISTENCE OF A COMMON AREA, SIZE, SHAPE, OR COMPOSITION OF ANY COMMON AREA OR ACCESS LOCATION, OTHER THAN THOSE PROVIDED HEREIN OR PROVIDED IN WRITING BY THE DEVELOPER, SHALL BE RELIED UPON, NOR SHALL IT IN ANY WAY REQUIRE THE DEVELOPER TO COMPLY WITH THAT REPRESENTATION.

(J) "COMMENCEMENT" shall mean when a building permit is issued or upon initial construction of any Dwelling or Structures (but excluding grading for such Dwelling or Structure or the construction of a road to the same).

(K) "COMMUNITY" shall mean and refer to the Property, and its subdivision into Lots and Common Areas.

(L) "DECLARANT(S)" shall mean the Developer and those individuals, companies, and/or entities being the owners of property as either identified in Exhibit "A" hereto or in

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instruments of annexation for additional property as provided in Article XI, and except in the case of the Developer, for which said individuals, companies, and/or entities have executed instruments of Joinder and Consent in the form of Exhibit "B" hereto.

(M) "DECLARATION" shall mean and refer to this Declaration of Covenants, Conditions, Restrictions, Easements, Charges, and Liens, any amendment or modification thereof, and any supplements thereto that annex additional land.

(N) "DEVELOPER" shall mean and refer to WILKES MOUNTAIN DEVELOPMENT COMPANY, LLC, a limited liability company organized and existing under and pursuant to the laws of the State of North Carolina, its successors and assigns. The Developer may make partial or multiple assignments of its rights under this Declaration. All such assignees shall be deemed to be the Developer only as to those rights which may have been assigned to them.

(O) "DEVELOPMENT PLAN" shall mean and refer to the drawing, sketch, map, or plan that depicts the conceptual land plan for future development of the Community. Since future development of the undeveloped portions of the Community, including without limitation the Lots, streets or road right-of-ways and any Common Area, are subject to continuing revision and change at the discretion of the Developer, present and future references to the "Development Plan" shall be references to the latest revision thereof. In addition, no implied reciprocal covenants or obligation to develop shall arise with respect to lands that have been retained by the Developer for future development. **THE DEVELOPER SHALL NOT BE BOUND BY ANY DEVELOPMENT PLAN, USE OR RESTRICTION OF USE SHOWN ON ANY DEVELOPMENT PLAN, AND MAY IN ITS SOLE DISCRETION AT ANY TIME CHANGE OR REVISE SAID DEVELOPMENT PLAN, DEVELOP OR NOT DEVELOP THE REMAINING UNDEVELOPED PROPERTY OR COMMON AREA OR AMENITIES SHOWN ON ANY DEVELOPMENT PLAN.**

(P) "DIRECTOR" shall mean and refer to an appointed or elected member of the Board of Directors.

(Q) "DWELLING" shall mean and refer to a single family home, patio home, or garden home if constructed in the Community.

(R) "LOT" shall mean and refer to any parcel of land with such improvements, Structures, or Dwellings as may be erected thereon, shown and described as a "Lot" on any recorded subdivision plat of the Property, but shall not include the Common Area or the streets or road right-of-ways in the Community.

(S) "MEMBER" shall mean and refer to any Owner, as provided in Article III hereof.



(T) "OWNER" shall mean and refer to the record owner or owners, whether one (1) or more persons or entities, of the fee simple title to any of the Lots, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage unless and until such mortgagee or holder has acquired title to the Lot pursuant to foreclosure or any proceedings in lieu of the foreclosure. Said term "Owner" shall also refer to the heirs, successors, and assigns of any Owner.

(U) "PLANS" shall mean and refer to and encompass the plans, specifications, elevations and exterior designs of any Structure built or to be built on any Lot, or Common Area, or of any other item so designated in the Architectural Guidelines, as well as a site plan showing building set backs and locations of all Structures or other items so designated in the Architectural Guidelines within the Lot or Common Area.

(V) "PROPERTY" shall mean and refer to all property, including but not limited to, the Lots, streets or road right-of-ways and Common Area, subjected to this Declaration, which are described in Exhibit "A", or included within such description, together with any additional land that may be developed pursuant hereto and annexed or incorporated in the Property by amendments or supplemental Declarations pursuant to Article XI of this Declaration.

(W) "REGULATIONS" shall mean and refer to the guidelines, rules, policies, regulations, and procedures, including, but not limited to, the Architectural Guidelines, adopted by the Developer, the Board of Directors, When Empowered, or the Architectural Control Authority, When Empowered, for the Community, and for any portion of the Property.

(X) "STRUCTURE" shall mean and refer to any thing or object upon any portion of the Property including by way of illustration and not limitation, any Dwelling or building or part thereof garage, porch, shed, mailbox, greenhouse, or bathhouse, coop or cage, covered or uncovered patio, siding, doors, fixtures, equipment, and appliances (including without limitation the heating and air-conditioning system for the Dwelling), furniture, glass, lights and light fixtures (exterior and interior), awnings, window boxes, window treatments, window screens, screens or glass-enclosed porches, balconies, decks, chutes, flues, ducts, conduits, wires, pipes, plumbing, and other like apparatus, playgrounds, playground equipment, tree houses and yard art, statuary, basketball goals (permanent or temporary), or other temporary or permanent sports equipment, swimming pool, fence, curbing, paving, driveways, walkways, wall or hedge, radio, television, wireless cable, or video antenna, satellite dishes, yard, lawn, landscaping, trees, shrubs, bushes, grass, well, septic system, sign, appurtenance, or signboard, whether temporary or permanent; any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of waters from, through, under or across any portion of the Property, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any portion of the Property; and any change in the grade of any portion of the Property of more than six (6) inches.

(Y) "WHEN EMPOWERED" shall mean when the Developer has transferred the right of



performing some function to the Association’s Board of Directors or another entity by the recordation of a document in the office of The Register of Deeds for the county in which the Property is located, or by giving written notice to the Association at the Association’s address of record, or to all Owners attending a duly called meeting for that purpose. Except for the rights retained by the Developer under its Class “C” Membership, the transfer of all functions to the Association and the rights and authority of the Developer for architectural control in the Community shall automatically occur when one hundred percent (100%) of the Lots have been conveyed by the Declarants and/or Developer to Owners other than builders or investors holding title for purposes of development and/or sale to third party purchasers, or when the Class B Membership terminates, whichever occurs first. “When Empowered” shall also mean and refer to when the Developer has delegated the right of performing some function to the Association’s Board of Directors, the Association’s membership, or to any other entity, which Developer may do without any recording or notice requirements.

ARTICLE II
LAND USE AND EASEMENTS

Section 1. GRANDFATHERING OF EXISTING STRUCTURES. Unless this Declaration shall specifically state otherwise as to any Lot on which a structure exists, or for which construction as to same has commenced as of the date on which this Declaration has been filed in the Register of Deeds for Wilkes County, North Carolina, said structure, and its use (or in the case of a structure under construction, the Owner’s intended use at such time), shall not be subject to the provisions and restrictions of this Article II for so long as such structures remain on the Lot without having been substantially modified or improved. “Substantially modified” or “Substantial improved” for purposes herein shall be deemed to occur when the cost of any proposed modification or improvement to the structure will constitutes more than 50% of the present value of the structure as existing prior to commencement of the modification or improvements being undertaken. In the event a structure is hereinafter demolished, destroyed, removed, or proposed to be substantially modified or improved as described above, the building and use of any replacement structure, or structure with substantial modifications and improvements, shall comply with all of the terms and provisions of this Article II as would be applicable to any other structure or improvement to be built on a Lot in the Community.

Section 2. RESIDENTIAL USE OF PROPERTY. Except as may be applicable to any existing structure as provided in Section 1 above, all Lots shall be used for single-family residential purposes only, and no commercial, business or business activity shall be carried on or upon any Lot at any time, except with the written approval of the Developer, its designee(s), or the Association, When Empowered; provided, however, that nothing herein shall prevent the Developer, its agents, representatives, employees, or any builder of homes in the Community, approved by the Developer, from using any Lot owned by the Developer or such builder of homes for the purpose of carrying on business related to the Community or related to the



improvement and sale of Lots or Dwellings in the Community; operating a construction office, business office, or model home, and displaying signs, and from using any Lot for such other facilities as in the sole opinion of the Developer may be required, convenient, or incidental to the completion, improvement, and sale of the Lots, Dwellings, or the Community; and provided, further that, to the extent allowed by applicable zoning laws, "home occupation", as defined in the Architectural Guidelines or in the zoning ordinances of the governmental authority having jurisdiction over the Lot, may be maintained in a Dwelling located on any of the Lots as approved in writing by the Developer or the Architectural Control Authority, When Empowered and the governmental authority having jurisdiction over the Lot, so long as the "home occupation" complies with any and all conditions of such approvals.

Section 3. CONSTRUCTION IN ACCORDANCE WITH PLANS. EXCEPT AS PROHIBITED BY LAW, INCLUDING WITHOUT LIMITATION 47 U.S.C. § 303 NT, AND RELATED FCC RULES, 47 CFR § 1.4000 (WHICH LIMITS, BUT DOES NOT ENTIRELY PROHIBIT, CONTROL BY THE ASSOCIATION OF THE SIZE AND LOCATION OF ANTENNAS AND SATELLITE DISHES), AND EXCEPT AS OTHERWISE PROVIDED IN SECTION 1 ABOVE, NO STRUCTURE SHALL BE CONSTRUCTED, ERECTED, MAINTAINED, STORED, PLACED, REPLACED, CHANGED, MODIFIED, ALTERED OR IMPROVED ON ANY LOT OR AREA OF EXTENDED LOT OWNER RESPONSIBILITY UNLESS APPROVED BY THE DEVELOPER OR ARCHITECTURAL CONTROL AUTHORITY, WHEN EMPOWERED AND ANY OTHER APPROPRIATE OWNER OR APPLICABLE GOVERNMENTAL ENTITY AND THE USE OF APPROVED STRUCTURES SHALL COMPLY WITH THE REGULATIONS ISSUED BY THE DEVELOPER OR THE ARCHITECTURAL CONTROL AUTHORITY, WHEN EMPOWERED, FROM TIME TO TIME. NO CONSTRUCTION, RECONSTRUCTION, ERECTION, REPAIR, CHANGE, MODIFICATION SHALL VARY FROM THE APPROVED PLANS. The Developer and the Architectural Control Authority, When Empowered, shall have complete discretion to approve or disapprove any Structure. The Developer and the Architectural Control Authority, When Empowered, shall have the complete discretion to withhold review of any and all plans submitted to it from an Owner who is not in good standing as a Member of the Association, including without limitation Members who owe past due Assessments on any Lot in the Community. All Structures or Dwellings shall be erected in compliance with applicable building, zoning and health codes of the State of North Carolina. All Dwellings erected on a Lot shall be completely finished, with landscaping and construction debris removed from the Lot, within eighteen (18) months of Commencement. Construction of Dwellings or other Structures must proceed at a reasonable rate of progress. The exterior of a Dwelling and the related driveway must be completed, and all related debris removed, within twelve (12) months of Commencement. An Owner shall make a continued effort to complete all construction in a timely manner and shall not voluntarily cease construction of a Dwelling or Structure following Commencement.. The Developer and the Architectural Control Authority, When Empowered, may issue from time to time Architectural Guidelines and Regulations to assist it in the approving of Structures and may change such Architectural Guidelines and Regulations at any



time and from time to time without notice to the Owners. (For definition of Structure, see Article I, Section I.) Notwithstanding anything herein to the contrary, until one hundred percent (100%) of the Lots have been conveyed by the Declarant and/or Developer to Owners other than builders or investors holding title for purposes of development and/or sale to third party purchasers, or when the Class B Membership terminates, the Developer may, at its sole option, approve or disapprove any Plans approved or rejected by the Architectural Control Authority or overturn any other action of such Architectural Control Authority. Such action by the Developer shall supersede and nullify the action taken by such Architectural Control Authority.

Section 4. PLAN REVIEW FEES; POSTING OF ROAD BOND FOR CONSTRUCTION ACTIVITIES. In accordance with the requirements of Section 3 above that all Plans for construction be submitted for review and approval, the Developer or the Architectural Control Authority, When Empowered, shall determine and establish a non-refundable Fee to be paid at the time Plans are submitted for review and approval. Such Fee shall be as determined by the Developer or the Architectural Control Authority, When Empowered, but shall not exceed \$500.00 unless approved by the Members at a meeting of the Association. In addition thereto, before any clearing or grading whatsoever begins on a Lot, a refundable road bond shall be required to be deposited with the Association. The amount of the road bond shall be as determined by the Developer or the Architectural Control Authority, When Empowered. The road bond shall initially be established at \$1,000.00 for calendar year 2008 and 2009. The cost and expenses of any necessary repairs to the roads and streets in the Community caused by negligent or careless actions of contractors, workers, delivery trucks, and suppliers, to a construction site on a Lot shall be deducted from the bond held by the Association, and the remainder shall be returned to the Owner at the time construction has ended. In the event the amount of the bond is determined to be insufficient to cover the costs of all such repairs, the Association reserves the right to bring a claim against either the Owner and/or the responsible parties for the excess amount of costs and expense incurred as related to the damage and claim.

Section 5. MINIMUM SQUARE FOOTAGE REQUIREMENT. Unless otherwise stated in a document recorded in the Wilkes County Register of Deeds Office, the Developer hereby establishes the following minimum square footage requirement, which may differ for each Neighborhood, if and when designated, and for additional phases of the Community:

Minimum square footage of air-conditioned and heated space for a home shall be 2,000 Square Feet, excluding square footage contained within a garage, if any.

Developer or Architectural Control Authority, When Empowered shall have the right to grant variances to the minimum square footage requirements based on factors other than square footage, including the volume of space contained within the home (i.e. the existence of high ceilings and/or rooms of cathedral/cavernous heights).

Section 6. BUILDING SETBACK REOUIREMENTS. Unless the Developer or the



Architectural Control Authority, When Empowered, waives the requirement or unless a setback is shown otherwise on any plat of the Community or unless otherwise stated in a document recorded in the County Register of Deeds Office, the exterior finished face, steps, eaves and overhangs of all Structures, including but not limited to, buildings, homes, garages, porches, sheds, greenhouses, bathhouses, terraces, patios, decks, stoops, wing-walls, swimming pools (whether above or below the ground) and storage buildings for related equipment (including but not limited to filters and water pumps) shall be placed on the Lot so as to meet the following criteria, which may differ for any additional phases of the Community:

Front Setback: Ten (10) Feet

Side Setback: Sixty (60) Feet.

Rear Setback: Sixty (60) Feet.

Section 7. WAIVER OF SETBACKS. BUILDING LINES AND BUILDING REQUIREMENTS. The Developer, and Architectural Control Authority, When Empowered may waive violations of the setbacks and building lines shown on any plat of the Community or set out in this Declaration. Such waiver shall be in writing and recorded by the Owner in the County Register of Deeds. A document executed by the Developer or the Architectural Control Authority, When Empowered shall be, when recorded, conclusive evidence that the requirements hereof have been complied with. The Developer and Architectural Control Authority, When Empowered, may also, from time to time as they see fit, eliminate violations of setbacks and boundary lines by amending said plats. Nothing contained herein shall be deemed to allow the Developer or the Architectural Control Authority, When Empowered, to waive violations which must be waived by an appropriate governmental authority without the Owner obtaining a waiver from such authority.

Section 8. SUBDIVISION/COMBINATION OF LOTS. Lots may be subdivided or divided only with the consent of the Developer and Architectural Control Authority, When Empowered, and prior to any subdivision, the boundary lines for the subdivided properties shall be first approved by such entity, which approval shall occur prior to the Owner's subdivision thereof. Notwithstanding the above, Owners of Lots for which proposed subdivision lines are shown and depicted on a survey prepared and recorded by the Developer may subdivide their Lot, without seeking any further approval of the Developer or Architectural Control Authority, so long as the Lot is subdivided along the proposed subdivision boundary lines as shown on the recorded survey. Certain Lots which are not contemplated for subdivision or division are specifically identified and named as part of the Exhibit "A" description of Property submitted subject to this Declaration, and for such Lots as so identified in Exhibit "A," any subdivision or alteration of their boundary lines shall only occur with the prior approval of the Developer and Architectural Control Authority, When Empowered. Nothing contained herein shall be construed to prohibit the Developer the right to re-plat any Lot or Lots which are owned by the



Developer into one (1), two (2) or more lots by subdivision, consolidation or reconfiguration, and the Developer may take such other steps as are reasonably necessary to make such re-platted Lot(s) suitable and fit for use for its originally intended purpose. Such steps may include but are not limited to the relocation of easements, and rights-of-way to conform to the new boundaries of said re-platted Lots.

Section 9. LIVESTOCK AND PETS. Unless the following is amended by the Regulations established and amended by the Developer or by the Board of Directors of the Association, When Empowered, from time to time, no animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or Area of Extended Lot Owner Responsibility, except that: (1) dogs, cats or other small household pets may be kept subject to any applicable leash or other animal control laws, provided that they are not kept, bred or maintained for any commercial purpose; and (2) no more than two (2) horses, ponies, or combination thereof, may be kept subject to any animal or livestock control laws. Such household pets and animals must not constitute a nuisance as determined by the Board of Directors in its sole discretion within the Community or cause unsanitary conditions within the Community, and no animal kept outside the Dwelling shall be kept in a manner which disturbs the quiet enjoyment of the Community or any other Owner. While not in a fully confined area, all pets shall be restrained by leashes and no pet shall enter upon any Lot without the express permission of that Owner or on the Common Area without express permission of the Developer, or the Association, When Empowered. The animal owner will be responsible for clean up and removal of fecal matter deposited by such pet/animal and shall be liable for, indemnify and hold harmless any other Owner, the Developer and the Association from any loss, cost, damage or expense incurred by such Owner, the Developer or the Association as a result of any violation of this provision. (See Article X for the Association's Remedies for Violation.)

Section 10. OFFENSIVE ACTIVITIES. Unless the following is amended by the Regulations established and amended by the Developer or by the Board of Directors of the Association, When Empowered, from time to time, no noxious, offensive or illegal activities as determined by the Developer or the Board of Directors, When Empowered, shall be carried on upon any Lot, Area of Extended Lot Owner Responsibility, Common Area, or street and road right-of-way, nor shall anything be done thereon which is or may become an annoyance or nuisance to any Owner in the Community. (See Article X for the Association's Remedies for Violation.). Without limiting the generality of the foregoing, the following activities are prohibited on any Lot, Area of Extended Lot Owner Responsibility, Common Area, or street and road right of way unless otherwise approved in writing by the Developer, or the Board of Directors of the Association, When Empowered:

- a. The use of on or off-road motorcycles, dirt bikes, or other all-terrain vehicles;
- b. The discharge of firearms, fireworks, or other missiles or other ordinance;

- c. Fires which are unattended and/or started during such weather conditions that would present an ultra-hazardous risk to life or property;
- d. The storage or dumping upon a Lot of rubbish, trash, garbage, scrap metal, and/or disabled appliances and equipment;
- e. The storage, dumping or disposal of any industrial or toxic waste, contaminated oil, chemicals or poisonous materials, or any other item or substance which is or may become an environmental hazard.

Section 11. TRAILERS. TRUCKS. BUSES. BOATS. PARKING, ETC. Unless the following is amended by the Regulations established and amended by the Developer or by the Board of Directors of the Association, When Empowered, from time to time, no commercial vehicles, passenger vehicles, buses, trailers or mobile homes, motorcycles, boats, boat trailers, all terrain vehicles, go-carts, campers, vans or vehicles on blocks, disassembled vehicles, unlicensed vehicles, or like vehicles shall be kept, stored, used, or parked overnight either on any street within the Community, in the Common Area, or on any Lot or Area of Extended Lot Owner Responsibility, without the approval of the Developer or the Association, When Empowered; provided, however, that: (1) passenger vehicles may be parked in approved areas on a Lot, to include garages, paved driveways, and any other area approved by the Developer or the Board of Directors, When Empowered, or as specified in the Regulations, and, (2) boats and recreational vehicles may be parked in either approved areas on a Lot or in such areas of a Lot that are not readily visible from any street or road right-of-way, or Common Area when viewed from such point in all Seasons and months of the year. No unsafe parking shall be allowed on any streets in the Community. The Developer or the Association, When Empowered, may in its sole discretion determine what is unsafe and issue regulations to control on and off street parking. (See Article X for the Association's Remedies for Violation.)

Section 12. USE OF GARAGES. Unless the Developer or the Association, When Empowered, gives written authorization to the contrary, no Owner shall use their garage for any other purpose besides parking their vehicles or storage of their personal property.

Section 13. EXCAVATIONS OR CHANGING ELEVATIONS. No Owner shall excavate or extract earth for any business or commercial purpose within the Property, including but not limited to mineral exploration, and the mining of oil and gas wells.

Section 14. SEWAGE SYSTEM. Sewage disposal for each Lot shall be by septic tank approved by appropriate State and local agencies.

Section 15. WATER SYSTEM. Water shall be supplied by each Lot through a private well approved by appropriate State and local agencies.



Section 16. UTILITY FACILITIES. The Developer reserves the right to approve the necessary construction, installation and maintenance of utility facilities and service lines for, on, over or under the Property or any portion thereof, including but not limited to telephone, cable television, electricity, gas, water and sewage systems, which may be in variance with these restrictions.

Section 17. RELOCATION OF TRAIL EASEMENTS ON LOTS. Lots may be shown on a plat or map recorded in the public records to contain an easement or right-of-way area specifically designated or reserved for existing or future trails and/or a pathway subject to use for walking, biking, or horseback riding, which easement shall be deemed for the benefit of all Owners in the Community, as well as their guests and invitees (hereinafter a "Trail Easement"). Owners may seek the relocation of Trail Easements upon application to the Developer or the Architectural Control Authority, When Empowered, as part of a complete application of proposed building plans, upon a showing that if such building plans were to be approved, the location of the proposed structure would encroach, infringe, or reasonably interfere with use of the Trail Easement. Notwithstanding the ability to seek a relocation, any relocation of a Trail Easement to another location on the Lot shall be subject to the discretion of the Developer or the Architectural Control Authority, When Empowered, and in the event the relocation is not approved for any reason, building plans which do not encroach, infringe, or reasonably interfere with use of the previously designated Trail Easement shall then be substituted for the building plans as previously submitted and denied.

Section 18. EASEMENT FOR UTILITIES AND COMMON FACILITIES. The Developer reserves unto itself and its permittees a perpetual, alienable, easement and right of ingress and egress, over, upon, across and under each Lot and Area of Extended Lot Owner Responsibility, and all Common Areas and Areas of Common Responsibility, if any, as are necessary or convenient for the erection, maintenance, installation, and use of electrical systems, cable television systems, irrigation systems, landscaping, telephone wires, cables, conduits, sewers, water mains, and other suitable equipment, other Structures and buildings necessary or convenient for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public convenience or utilities including but not limited to privately owned television systems and other communications cable and equipment, and the Developer may further cut drainways for surface water when such action may appear by the Developer to be necessary in order to maintain reasonable standards of health, safety, and appearance, or to correct deviations from approved development drainage Plans, provided such easement shall not encroach on or cross under existing buildings or Dwellings on the Lot or Common Area. Unless otherwise shown on a recorded plat of the Community, the Developer further reserves an easement on behalf of itself and its permittees over twenty (20') feet along each side Lot line of each Lot for the purpose of construction or maintenance of utilities, as well as drainage installation or maintenance, and over the rear twenty feet (20') of each Lot line of each Lot for the purpose of construction or maintenance of utilities, as well as drainage installation or maintenance, and over the front twenty feet (20') of each Lot and over such other area of each Lot and Area of

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Extended Lot Owner Responsibility as is shown on recorded plats of the Community for utility installations, utility rights of way and maintenance thereof, as well as drainage installations, drainage rights of ways, and maintenance thereof. These easements and rights expressly include the right to cut any trees, bushes, or shrubbery, make any grading of soil, or to take any other similar action reasonably necessary to provide economical and safe utility or other installation and to maintain reasonable standards of health, safety and appearance. It further reserves the right to locate signs, entrances, landscaping, sprinklers and other improvements related to the Common Area or common facilities of the Community including, but not limited to, entrances, wells, pumping stations, and tanks, within residential areas on any Lot or Area of Extended Lot Owner Responsibility in the area designated for such use on any applicable plat of the residential subdivision. Such right may be exercised by the licensee of the Developer, but this reservation shall not be considered an obligation of the Developer to provide or maintain any such utility service. No Structures, including, but not limited to, walls, fences, paving or planting shall be erected upon any part of the Property which will interfere with the rights of ingress and egress provided for in this paragraph and no Owner shall take any action to prevent the Association, the Developer, or any public or private utility, or any of their agents, contractors or employees from utilizing the easements reserved herein. **THE DEVELOPER, THE ASSOCIATION, THE ARCHITECTURAL CONTROL AUTHORITY, THEIR AGENTS, EMPLOYEES AND OFFICERS SHALL NOT BEAR RESPONSIBILITY FOR THE REPAIR OR REPLACEMENT OF ANY LANDSCAPING PLANTED, SPECIAL GRADING ESTABLISHED, OR STRUCTURE CONSTRUCTED WITHIN AN EASEMENT, WHETHER PLANTED, ESTABLISHED OR CONSTRUCTED INTENTIONALLY OR INADVERTENTLY AND WHETHER APPROVED OR NOT BY THE DEVELOPER OR THE ARCHITECTURAL CONTROL AUTHORITY, WHEN EMPOWERED.** The Developer expressly reserves the right to alter, expand or overburden any easement described in this paragraph. Such right to alter, expand or overburden shall be limited to such extent as will allow the Owner of the affected Lot and Structure to convey marketable title. The rights and easements conferred and reserved herein shall be appurtenant to any property now or hereafter owned by Developer, whether or not subject to this Declaration and shall be an easement in gross of a commercial nature for the benefit of the Developer and its permittees to serve any property whether or not subject to this Declaration.

Section 19. YARD AND LANDSCAPING MAINTENANCE.

(a) In the event that the Owner of any residential Lot, improved or unimproved, fails to maintain their yard and overall landscaping of their Lot or Area of Extended Lot Owner Responsibility in a manner in keeping with the Declaration, as determined by the Developer or an Architectural Control Authority, When Empowered, from time to time as they see fit, the Developer or the Architectural Control Authority, When Empowered, may issue a compliance demand requiring the Owner of the residential Lot to bring the Lot or Area of Extended Lot Owner Responsibility into keeping with the Declaration, as determined by the Developer or the Architectural Control Authority, When Empowered. If the Owner of the residential Lot fails to



comply within the time required by the notice, the Developer or the Association may enter upon the Lot or Area of Extended Lot Owner Responsibility, bring the Lot or Area of Extended Lot Owner Responsibility into keeping with the Community, as provided above, and levy against the Owner of the Lot an Assessment for Non-Compliance and such Assessment shall be a lien upon the Lot.

(b) The responsibility of an Owner of a residential Lot to properly maintain their yard and overall landscaping of their Lot and Area of Extended Lot Owner Responsibility includes, but is not limited to, the following:

- (i) prevent any underbrush, weeds, or other unsightly plants to grow upon the Lot and Area of Extended Lot Owner Responsibility;
- (ii) provide permanent vegetation, including but not limited to natural ground cover and vegetation, or in the alternative grass, over the Lot and Area of Extended Lot Owner Responsibility;
- (iii) unless approved otherwise by the Developer or the Architectural Control Authority, When Empowered, maintain and (if they are determined to be unhealthy by the Developer or the Architectural Control Authority, When Empowered) replace, any tree(s) or portions thereof and/or other vegetation upon the Lot or Area of Extended Lot Owner Responsibility or located within the road right-of-way, that (1) are specifically required to be removed or replaced by the Developer or the Architectural Control Authority, When Empowered, (2) were required by the Developer or the Architectural Control Authority, When Empowered, to have been protected during construction, or (3) were placed in this area in accordance with an approved landscape plan;
- (iv) provide proper grading and drainage on the Lot and Area of Extended Lot Owner Responsibility, in accordance with Article IX of this Declaration;
- (v) prevent and repair any erosion on the Owner's Lot, Area of Extended Lot Owner Responsibility, any other Lot, or any street in the Community caused by surface run-off from the Owner's Lot, in accordance with Article IX of this Declaration; and
- (vi) providing at their own expense general maintenance, including but not limited to proper watering, insect and weed control, fertilization, pruning, regular replacement of straws and mulch, proper drainage control, etc. and other types of normal maintenance not provided by the Association, of the overall landscaping and grass for their Lot and Area of Extended Lot Owner Responsibility in compliance with the Regulations and Architectural Guidelines established by the Developer, the Board of Directors or the Architectural Control Authority, When Empowered.

(c) Any entry by the Association or the Developer or their agents, employees, officers



or contractors under the terms of this Section shall not be deemed a trespass, and an easement in gross of a commercial nature is reserved to the Developer and to the Association for the purpose of entry onto any residential Lot or Area of Extended Lot Owner Responsibility for the purpose of enforcing this paragraph. This provision shall not be construed as an obligation on the part of the Developer, the Association to provide garbage or trash removal services. As provided herein, these rights may be assigned by the Developer to the Association, or other appropriate entities. The Owner shall hold harmless the Developer, its agents and employees, officers and contractors and the Board of Directors or the Architectural Control Authority, When Empowered, from any liability incurred arising out of correcting the Owner's breach of this Section.

Section 20. NATURAL WATERWAYS. No Owner shall obstruct, alter, or interfere with the flow or natural course of the water of any river, creek, stream or other body of water within the Community or erect a dam or similar structure in such waterway, without the express written consent of the Developer or the Architectural Control Authority, When Empowered.

Section 21. SIGNS. Unless the following is amended by the Architectural Guidelines or Regulations established and amended by the Developer or by the Board of Directors of the Association, When Empowered, from time to time, no sign can be placed on any part of the Property without the expressed written consent of the Developer or Association, When Empowered. The Developer and the Association, When Empowered, may from time adopt, amend, change, modify or eliminate any Regulation, and may waive any violation of the Regulations, in their sole discretion, without notice to the Owners. Under no condition will any waiver of any violation constitute precedent to any future violations. Even once permission to erect a sign is granted from the Developer or the Association, When Empowered, the Developer and the Association, When Empowered, reserve the right to restrict size, color, and content of such signs.

Section 22. ACCESS BY DEVELOPER OR ASSOCIATION, WHEN EMPOWERED. For the purpose of performing its function under this or any other Article of this Declaration, the Association or the Developer, and their duly authorized agents and employees, shall have the right to enter upon any Lot or Area of Extended Lot Owner Responsibility to (a) correct any violation of this Declaration, the Architectural Guidelines or the Regulations, (b) make necessary examinations in connection therewith, (c) respond to the request or demand of a governmental body, district, agency, or authority exercising jurisdiction over a portion of the Property, or (d) in the sole discretion of the Developer or the Association, prevent an anticipated request or demand of a governmental body, district, agency, or authority exercising jurisdiction over a portion of the Property. With regard to the aforementioned Developer's right of access in the context of responding to, or preventing a request from, a governmental body, district, agency, or authority, the Developer's right of access shall remain in effect for as long as said governmental body, district, agency, or authority has enforcement power over the Developer, even after the Developer's Class "B" Membership has been converted to Class "C" Membership (see Article III herein).



Section 23. EMERGENCY ACCESS. There is hereby reserved and granted to the Developer, the Association, When Empowered, their directors, officers, agents, employees, and managers and to all policemen, firemen, ambulance personnel and all similar emergency personnel an easement to enter upon the Property, any part thereof or Lot in the proper performance of their respective duties. Except in the event of emergencies, the rights under this Section shall be exercised only during reasonable daylight hours, and then, whenever practicable, only after advance notice to the Owner affected thereby. The rights granted herein to the Developer and the Association includes reasonable right of entry upon any Lot, Area of Extended Lot Owner Responsibility or Dwelling to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the Community.

Section 24. CONSTRUCTION EASEMENT FOR THE DEVELOPER During the period that Developer owns any Lot primarily for the purpose of sale or owns any interest in any portion of the Property, Developer and its duly authorized representatives, agents, and employees shall have a transferable right and easement on, over, through, under and across the Property for the purpose of making improvements to the Property as are contemplated by this Declaration and to the Property as Developer, in its sole discretion, desires, and for the purposes of installing, replacing, and maintaining improvements within the Community, as well as utilities servicing the Property or any portion thereof, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event shall Developer have the obligation to do any of the foregoing.

Section 25. LEASES OF LOTS. Any lease agreement between an Owner and a tenant for the lease of such Owner's Lot or portion thereof, including any portion of the Dwelling or other Structure on the Lot, shall be subject to and shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration, the Articles of Incorporation and By-Laws of the Association, and any Regulations promulgated by the Association. The Owner shall incorporate in any lease of any Lot, Dwelling, or Structure a provision stating that failure to comply with the terms of such documents shall be default under the terms of the lease. All leases of Lots, Dwellings, or Structures shall be in writing and a copy of the executed lease, upon written demand, must be provided to the Developer or the Board of Directors, When Empowered.

Section 26. REGULATIONS. The use of the Property shall be subject to the Regulations promulgated from time to time by the Developer, and the Association, When Empowered. The Developer and the Association, When Empowered, may from time to time adopt, amend, change, modify or eliminate any Regulation and may waive any violation of the Regulations, in their sole discretion, without notice to the Owners. The Regulations may apply to the entire Property, to portions of the Property. Until one hundred percent (100%) of the Lots have been conveyed by the Declarants and/or Developer to Owners other than builders or investors holding title for purposes of development and/or sale to third party purchasers, or when the Class B Membership

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terminates, the Developer may, in its sole discretion: delegate, temporarily or for the period that these rights and authority are reserved to the Developer, the rights set out herein; amend the Regulations of the Association; waive the violation of any Regulation issued by the Association; grant variances to the Regulations of the Association; veto any modification to the Regulations proposed or implemented by the Association; override any attempt by the Association to enforce or implement the Regulations; and require the Association to enforce and implement any provision of the Regulations.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. MEMBERSHIP. It is mandatory that every person or entity who is an Owner of any Lot shall be a Member of the Association.

Section 2. VOTING RIGHTS. The Association shall have three (3) classes of voting Membership.

(a) CLASS "A". Class "A" Members shall be all Owners excepting the Developer. Class "A" Members shall be entitled to one (1) vote for each Lot they own. When more than one (1) person holds such interest or interests in any Lot, the entire vote attributable to such Lot shall be exercised by one (1) individual who is duly authorized in writing by all of the Owners of that Lot. In no event shall more than one (1) vote or a partial vote be cast with respect to any such Lot. When more than one person holds such an interest or interests in a Lot, it shall be the responsibility of those Owners to provide the Developer or the Association with written notification, with the signatures of all of those persons owning an interest in the Lot affixed, of the name and mailing address of that person authorized to receive notification from the Association and to cast said vote. Class "A" Membership shall be mandatory for all Owners except the Developer and may not be separated from ownership of any Lot.

(b) CLASS "B". The sole Class "B" Member shall be the Developer. The Class "B" Member shall be entitled to cast the greater of four (4) votes for each Lot for which it holds title or one more vote than the total votes of the Class "A" Members. Class "B" Membership shall end and Class "C" Membership shall automatically begin when one hundred percent (100%) of the Lots have been conveyed by the Declarants and/or Developer to Owners other than builders or investors holding title for purposes of development and/or sale to third party purchasers, or at such time as the Developer voluntarily relinquishes its Class "B" Membership in writing to the Association, whichever occurs first. In addition to any and all rights granted to it in this Declaration, the Class "B" Member shall enjoy all of the rights granted to a Class "C" Member, prior to the termination of the Class "B" Membership.



(c) CLASS "C". The sole Class "C" Member shall be the Developer upon termination of its Class "B" Membership. The Class "C" Member shall have no voting rights and no assessment obligations. The Class "C" Member shall enjoy certain limited rights under this Declaration, the Bylaws, and the Regulations, including without limitation the right to: (1) obtain access to, and electronic and/or paper copies of, Association's books and records, including financial and membership data; (2) exercise the Declaration's enforcement powers pursuant to Article X, Section 5 of this Declaration, and (3) call Special Meetings of the Association on any topic or issue it sees fit in its sole discretion, although the Class "C" Member would not be entitled to vote at said meeting. Class "C" Membership shall terminate at the voluntary discretion of the Developer, although there is no requirement that it be terminated.

ARTICLE IV
PROPERTY RIGHTS IN THE COMMON AREA

Section 1. MEMBER'S EASEMENTS OF ENJOYMENT. Subject to the rights reserved by the Developer in this Declaration, including without limitation those contained in Section 3 of this Article IV, the right of the Association to suspend the use of the Common Area as set out in Article X, and the Regulations established and amended from time to time, every Member shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot. (See Article X for the Association's Remedies for Violations.)

Section 2. TITLE TO COMMON AREA. On or before the conveyance of the last Lot owned by the Developer, the Developer will convey to the Association, by special (limited) warranty deed, fee simple title to the Common Area, as adjusted by the Developer, or the Board of Directors, under the authority granted to the Developer herein, free and clear of all encumbrances and liens, except those created by or pursuant to this Declaration, and further except for easements and restrictions existing of record prior to the purchase of the Property by the Developer, none of which will make the title unmarketable. The Developer hereby reserves the right to amend said Common Area deed or file a corrective Common Area deed at its sole discretion regardless of whether Developer still owns any portion of the Property or not, and the Association shall consent to such amended or corrective Common Area deed(s).

This section shall not be amended, as provided for in Article XII, Section 5, to eliminate or substantially impair the obligation for the maintenance and repair of the Common Area.

Section 3. EXTENT OF MEMBER'S EASEMENTS. The rights and easements created hereby shall be subject to the following rights which are hereby reserved to the Developer or the Association's Board of Directors, When Empowered:

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(a) The right of the Developer, and of the Association, When Empowered, to dedicate, transfer, or convey all or any part of the Common Area, with or without consideration, to any governmental body, district, agency, or authority, or to any utility company, and the right of the Developer and of the Association, When Empowered, to convey with consideration all or any part of the Common Area upon affirmative vote of more than fifty (50%) percent of the total votes of the Members, cast at a duly called meeting of the Members or a recorded resolution signed by the Members holding more than fifty (50%) percent of the vote of the Members.

(b) The right of the Developer, and of the Association, When Empowered, to grant and reserve easements and rights of way through, under, over, and across Common Area, for the installation, maintenance, and inspection of lines and appurtenances for public and private water, sewer, drainage, and other utility services, including a cable or community antenna television system and irrigation or lawn sprinkler systems, and the right of the Developer to grant and reserve easements and rights of way through, over and upon and across the Common Area for the operation and maintenance of the Common Area.

(c) The right of the Developer, and of the Association, When Empowered, to grant conservation easements through, under, over, and across any portion of the Common Area. In addition, the Association shall grant such conservation easements over Common Areas as directed to by the Developer, regardless of whether or not the Developer still owns any portion of the Property.

(d) The right of Members, visitors, invitees, and guests to ingress and egress in and over streets and road right-of-ways being shown on recorded subdivision plats of the Property, as well as those portions of Common Area that lie within any private roadways, parking lots and/or driveways (and over any other necessary portion of the Common Area in the case of landlocked adjacent Owners) to the nearest public highway.

(e) The right of the Association, in accordance with the law, its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area and, in pursuance thereof, to mortgage or encumber the Common Area.

(f) Until one hundred percent (100%) of the Lots have been conveyed by the Declarants and/or Developer to Owners other than builders or investors holding title for purposes of development and/or sale to third party purchasers, or when the Class B Membership terminates, whichever occurs first, by the filing of an Amendment or Addendum to this Declaration which describes the Property, the Developer shall have the sole authority to increase or decrease the size of the Common Area, to add or remove Common Area or to change the location of Common Areas, whether these tracts have been deeded to the Association or are projected to be or have been designated by the Developer as a Common Area. Thereafter this authority shall be transferred to the Association and any adjustment to the dimensions or location of the Common

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Area by the Association shall be approved by more than 50% of the members of the Association entitled to vote.

Section 4. DELEGATION OF RIGHTS OF ENJOYMENT. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Area and facilities to his family, tenants, invitees, guests or licensee, subject to the Regulations established and amended from time to time. Any Owner shall at all times be responsible for and liable for the actions of that Owner's family, tenants, invitees, guests or licensees, employees, pets, and animals, or anyone else on the Common Area with the permission of said Owner or otherwise on the Common Area due to the actions or lack of action taken by said Owner, and shall further be responsible for the paying of any Assessments for Non-Compliance levied for their non-compliance with this Declaration, the By-Laws of the Association or the Regulations established and amended from time to time, which Assessment shall become a continuing lien on the Lot of such Owner.

Section 5. ADDITIONAL STRUCTURES. Neither the Association nor any Owner shall, without the prior written approval of the Developer, so long as the Developer owns one (1) Lot shown or permitted on the Development Plan of the Community, or without written approval of the Board of Directors, When Empowered, erect, construct, or otherwise locate any Structure or other improvement in the Common Area. The Developer, so long as the Developer owns one (1) Lot permitted by the Development Plan of the Community, reserves the right to erect, construct, or otherwise locate any additional Structure or other improvement in the Common Area.

ARTICLE V
COMPLETION, MAINTENANCE, AND OPERATION OF COMMON AREA
AND FACILITIES

Section 1. COMPLETION OF COMMON AREA BY THE DEVELOPER. The Developer will complete the construction of the Common Area, as adjusted, and the streets and roadways for the Community as shown on the recorded plats of the Community.

Section 2. MAINTENANCE AND OPERATION OF COMMON AREA. The Association at its sole cost and expense shall operate and maintain the Common Area and provide the requisite services in connection therewith. It shall further be the responsibility of the Association to maintain all entrances including entrance signs, roads and parking areas within the community that are not maintained by some other entity or that are defined on an attached exhibit to this Declaration, or shown on a recorded plat, lights, sprinklers, shrubs, and to pay the cost of utility bills and other such requisite services in connection with the maintenance of the above. Unless located on a Lot or accepted by another responsible party (including without limitation public bodies, governmental bodies, districts, agencies or authorities), all roadways and parking areas within the Community, whether located on Common Area or not, shall be

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maintained by the Association. Until one hundred percent (100%) of the Lots have been conveyed by the Declarants and/or Developer to Owners other than builders or investors holding title for purposes of development and/or sale to third party purchasers, or when the Class B Membership terminates, whichever occurs first, if the Association fails to operate, maintain or repair the Common Area to the satisfaction of the Developer or fails to employ contractors which the Developer, in its sole discretion, determines to be able to properly operate or maintain the Common Area, the Developer may, but is not required to, notify the Association to correct the maintenance problem or remove the contractor. If the Association fails to do so within the time set forth in the notice, the Developer may, but is not required to, correct said maintenance problem or remove and replace such contractor. The Association shall reimburse the Developer for any and all costs incurred by the Developer and the cost including collection costs incurred by the Developer shall be a lien on the Common Area. This Section shall not be amended or removed without the written consent of the Developer. Any entry by the Developer under the terms of this Section shall not be deemed a trespass, and an easement in gross of a commercial nature is reserved to the Developer for the purpose of entry onto the Common Area for the purpose of enforcing this paragraph. This provision shall not be construed as an obligation on the part of the Developer to provide garbage or trash removal services. As provided herein, these rights may be assigned by the Developer. The Association shall hold harmless the Developer, its agents, officers, directors, and employees from any liability arising out of correcting the Association's breach of this Section. The maintenance, operation, and repair of the Common Area shall include, but not be limited to, repair of damage to pavements, roadways, walkways, outdoor lighting, buildings, if any, recreational equipment, if any, fences, storm drains, and sewer and water lines, if any, connections, and appurtenances, except when such responsibilities are accepted by responsible parties, including public bodies, governmental bodies, districts, agencies or authorities and only for so long as they properly perform.

**ARTICLE VI
ASSESSMENTS**

Section 1. ASSESSMENTS

(a) Each and every Owner of any Lot or Lots within the Property, by acceptance of a deed to a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be personally obligated to pay to the Association, the Assessments, and the Association's collection fees, attorneys fees and court cost incurred in collecting the Assessments, or in enforcing or attempting to enforce the Declaration, By-Laws and the Architectural Guidelines and Regulations established or amended from time to time by the Developer or the Board of Directors, When Empowered.

(b) Assessments, together with such interest thereon, and other costs of collection;

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including the Association collection fees, attorney fees and court costs shall be a charge on the land and shall be a continuing lien upon the Lot or Lots against which such Assessments are levied. Owners of any Lot shall share in the obligation of any other Owner of that Lot and shall be jointly and severally liable for any Assessments, the cost of collection, attorneys fees and court costs that are attributable to that Lot. In the event an Owner holds title to multiple Lots in the Community, including without limitation builders, the Association's continuing lien shall be treated as one all-encompassing lien over all the Lots of that Owner for purposes of the remedies set forth in Article X of this Declaration.

(c) The Association shall, upon demand at any time, furnish to any Owner or attorney representing the prospective purchaser of a Lot, a certificate in writing signed by an officer of the Association, setting forth whether said Assessments have been paid. Such certificate shall be conclusive evidence of payment of any Assessments therein stated to have been paid. At all times the Association's records with respect to payments made or due shall be deemed correct unless proper documentation to the contrary can be produced. The Association may establish and charge a reasonable fee representing costs and expenses of the Association or its representatives for issuance of the certificate.

(d) This Article shall not be amended as provided in Article XII, Section 5, to eliminate or substantially impair the obligation to fix the Assessments at an amount sufficient to properly operate the Association, maintain and operate the Common Area and perform the maintenance required to be performed by the Association under this Declaration without the written consent of the Developer.

(e) There shall be five (5) types of Assessments: (1) Regular Assessments; (2) Assessments for non-compliance with this Declaration, the By-Laws of the Association, and the Regulations established and amended from time to time; (3) Assessments for Capital Improvements as described in Section 4 below; (4) Assessments for Working Capital Fund as described in Section 5 below; and (5) Assessments for Budgetary Shortfall as described in Section 6 below. Such Assessments to be fixed, established, and collected from time to time as herein after provided. (See Section X for Remedies of the Association for Violation.)

Section 2. REGULAR ASSESSMENTS.

(a) The Regular Assessments levied by the Association shall be used exclusively for the purposes of the general operation of the Association, reserves and the promotion of the health, safety, and welfare of the residents of the Community, and in particular for the improvement, maintenance, and operation of the Common Area, including but not limited to, the payment of mortgages, taxes and insurance thereon, and repair, replacement, and additions thereof, the cost of utilities, labor, equipment, materials, management, accounting and auditing fees, and the cost of lawn and landscaping maintenance, refuse collection (if so provided by the Association); reserves for the replacement of the Association property and improvements to the Common

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Area; and all other obligations or debts incurred by the Association. The Developer has established the Regular Assessment to initially be \$1,000.00 for calendar years 2008 and 2009.

(b) The Developer or the Board of Directors of the Association, When Empowered, shall at all times fix the Regular Assessment based on the Association's budget for the period of the Regular Assessment. The amount of the Regular Assessment shall be uniform for each Lot except as set forth herein and shall be assessed against all Lots at the time of the Assessment. The Developer or Board of Directors, When Empowered, shall once each year create a budget and fix the date of commencement, the size and number of installments, the method of determining the amount of all Regular Assessments against each Owner of a Lot, and shall, at that time, prepare a roster of the Owners and the Assessments applicable thereto. The roster shall be kept in the office of the Association and shall be opened to inspection by any Owner. If the Developer or the Board of Directors, When Empowered, fails to set a Regular Assessment, then the previous Assessment or the previous installment schedule shall continue until the Regular Assessment is set. A copy of the budget or any amended budget and written notice of the Regular Assessment and adjustment thereof, shall be sent to every Owner subject thereto, identifying the amount(s), due date(s), and the address to which payments are to be sent, at least thirty (30) days in advance of the due date of the first (or only) installment of each Regular Assessment. Until one hundred percent (100%) of the Lots have been conveyed by the Declarants and/or Developer to Owners other than builders or investors holding title for purposes of development and/or sale to third party purchasers, or when the Class B Membership terminates, whichever occurs first, the Developer shall have the option of approval of any portion of the budget.

(c) The Developer or the Board of Directors, When Empowered, shall have the right to adjust the amount and installment schedule of the Regular Assessment without Membership approval for the purpose of meeting the budgetary obligations of the Association and in times of an unexpected cashflow shortfall. In the event of an unbudgeted cash surplus, the Developer or the Board of Directors, When Empowered, shall have the authority to apply some or all of the surplus toward its capital improvement fund or capital reserve fund. The Developer or the Board of Directors, When Empowered, may, at its sole discretion, set estimated Regular Assessments until the Regular Assessment is set and the budget completed, or may delay the billing of Regular Assessments until the budget is complete and then bill the Owners for the Regular Assessment for the entire budget period.

(d) Until one hundred percent (100%) of the Lots have been conveyed by the Declarants and/or Developer to Owners other than builders or investors holding title for purposes of development and/or sale to third party purchasers, or when the Class B Membership terminates, whichever occurs first, the Developer may also choose the option of either (1) paying the Regular Assessments attributable to the Lots owned by the Developer at the time that the Regular Assessments are due and paying a prorated Regular Assessment for the incorporation of additional Lots in the Community during the budget period or (2) paying the deficits in the expenses and capital reserves (but not contingencies) of the Association not paid by the Regular

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Assessments, so long as the responsibilities of the Association within the approved budget are properly met. Any expenses of the Association paid by and any advances paid to the Association by the Developer which are in excess of the amount due from the Developer for Regular Assessments for Lots owned by the Developer, or if the Developer chooses to pay deficit expense, the amount paid by the Developer to or for the Association which exceeds the actual deficit, at the option of the Developer, shall be considered a loan to the Association, repayable under terms established by the Developer, and which are reasonably acceptable to the Board of Directors of the Association. Once the Developer becomes a Class "C" Member, it no longer shall be obligated to pay any Assessments or deficits.

(e) Any Regular Assessment against Lots owned by the Developer (including those Lots added to the Community after the date of the Assessment) shall not be due until the end of the period for which the Regular Assessment is established, provided, however, if the Developer has elected not to pay Regular Assessments and instead to pay the deficits in the expenses and capital reserves of the Association and fails to pay such deficits within thirty (30) days after the end of the budget period, the Regular Assessment for Lots owned by the Developer shall be due in thirty (30) days after the Association notifies the Developer of its failure to pay the deficits at the end of the budget period.

(f) At the time of the closing of a Lot owned by the Developer, if the Regular Assessment for that period has been paid by the Developer, that portion of the Regular Assessment that is attributable to the balance of the period shall be collected and paid to the Developer by the purchaser of the Lot. Any sums not reimbursed to the Developer, shall also be a lien on the Lot. All other Assessments, when levied, shall be the responsibility of the Owner of record on the date that the Assessment is authorized by the Developer or by the Board of Directors of the Association, When Empowered.

Section 3. ASSESSMENTS FOR NON-COMPLIANCE. In the event that any Owner, their guests or invitees fail to comply with any of the provisions of the Declaration, the By-Laws of the Association, the Architectural Guidelines and Regulations established and amended by the Developer or the Board of Directors, When Empowered, from time to time, relating to any portion of the Community, including without limitation violations occurring on Lots, Areas of Extended Lot Owner Responsibility, Common Areas, and streets, the Developer and the Board of Directors, When Empowered, may issue Assessments against the responsible Lot Owner(s) in amounts as it determines in its sole discretion, which shall be an Assessment for Non-Compliance and which are a lien on the Lot or Lots of that Owner(s). The Developer shall retain the power to levy Assessments for Non-Compliance even after the Association becomes entitled to exercise such power, including after Developer's Class "B" Membership is converted to Class "C" Membership. Therefore, the rights of the Developer and of the Association under this Section are not mutually exclusive. (See Article X for Remedies of the Association.)

Section 4. ASSESSMENTS FOR CAPITAL REPAIR OR IMPROVEMENTS. In

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addition to the Regular Assessments, the Association may levy, in any period, an Assessment (which must be fixed at a uniform rate for all Lots) for the purpose of defraying, in whole or in part, the cost of any construction or any reconstruction, unexpected repair or replacement of a capital improvement upon the Common Area, including the necessary fixtures, equipment and personal property relating thereto, provided that such Assessment shall have the assent of more than fifty (50%) percent of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days and no more than sixty (60) days in advance of the meeting provided, however, these periods for notice may be shorter as necessary to obtain funds for emergency repairs to the Structures on the Common Area. Subject to the provisions of Section 2, the due date or due dates of any installment of any such Assessment shall be fixed in the resolution authorizing such Assessment.

Section 5. ASSESSMENT FOR WORKING CAPITAL FUND. At the time of acquiring title to a Lot from the Developer or from a contractor who purchased the Lot from the Developer and completed the Dwelling and Structures on the Lot, the Owner acquiring title to the Lot shall, at the option of the Developer or the Board of Directors, When Empowered, deposit with the Association a reserve fund payment in a sum equal to one-sixth (i.e. 2/12th's) of the Regular Assessments to be levied during the twelve month period corresponding to the Regular Assessment budget as referenced in Article VI, Section 2(a) above. Said reserve fund payment shall provide for a working capital fund for the obligations of the Association. Such working capital fund payment shall in no way be considered a prepayment of the Regular Assessment. Such working capital fund payments shall be used for the purposes as determined from time to time by the Developer or the Board of Directors of the Association, When Empowered.

Section 6. ASSESSMENTS FOR BUDGETARY SHORTFALL. In addition to the Regular Assessment, the Developer or the Board of Directors, When Empowered, may, at its option, draw from the appropriate reserve funding or working capital funds or may levy, in any period, an Assessment (which must be fixed at a uniform rate for all Lots), subject to the provisions of Section 2, applicable to that period only, to cover any unexpected shortfall in the cash flow of the Association. Said Assessment shall not require the approval of the Membership.

Section 7. SUBORDINATION OF THE LIEN TO MORTGAGES/DEEDS OF TRUST. The liens provided for herein shall be subordinate to the lien of any first lien, mortgage or deed of trust recorded prior to the recording of the Notice of Delinquency by the Association or the Developer in the Office of the Register of Deeds for the County in which the Lot is located. Sale or transfer of any Lot shall not affect the liens provided for in the preceding section. However, the sale or transfer of any Lot which is subject to any such first lien, mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of Assessments under the Notice of Delinquency to such mortgage as to the payment thereof which becomes due prior to such sale or transfer but shall not relieve any Owner in possession of a Lot prior to such foreclosure sale or deed of trust from any personal obligation



defined herein for the payment of Assessments. No such sale or transfer shall relieve such Owner from liability for any Assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any subsequent first lien, mortgage or deed of trust, except for liens for Assessment due from subsequent Owners of the Lot if the Notice of Delinquency is recorded prior to the subsequent first lien mortgage.

Section 8. EXEMPT PROPERTY. The following properties subject to this Declaration shall be exempt from the dues, Assessments, charges, and liens created herein: (a) All Common Area, as defined in Article I, Section 1 hereof and (b) streets and road rights-of-way. Notwithstanding any provision herein, no Lots shall be exempt from said liens.

ARTICLE VII
ARCHITECTURAL CONTROL

Section 1. ARCHITECTURAL CONTROL AUTHORITY. The Architectural Control Authority when established by the Developer or the Board of Directors of the Association, When Empowered, shall be composed of at least three (3) representatives.

Section 2. PROCEDURES.

(a) Any person desiring to construct, maintain, place, replace, reconstruct any Structure on any Lot, Area of Extended Lot Owner Responsibility or Common Area or to make any improvements, alteration or changes to any Structure, in addition to obtaining any and all applicable property owner or governmental approvals, shall submit Plans and any other documentation required by the Architectural Guidelines to the Developer or the Architectural Control Authority, When Empowered, which shall evaluate, approve, disapprove or refuse to approve in writing such Plans in light of the purpose of the Declaration. The Developer and the Architectural Control Authority, When Empowered, shall have the complete discretion to withhold review of any and all plans submitted to it from an Owner who is not in good standing as a Member of the Association, including without limitation Members who owe past due Assessments on any Lot in the Community. Any person using any Structure shall comply with the Regulations established and amended from time to time. An aggrieved Owner may appeal the final decision of the Architectural Control Authority to the Developer or the Board of Directors, When Empowered, through the processes required by the Architectural Control Authority or as set forth in the Architectural Guidelines or the Regulations. The failure to publish Architectural Guidelines shall not in any manner adversely affect the architectural review authority of the Developer, the Board of Directors, When Empowered, or the Architectural Control Authority, When Empowered as set forth in this Declaration, including without limitation the authority to approve any and all Structures on any and all Lots, Areas of Extended Lot Owner Responsibility



or Common Areas.

(b) The Developer, or the Architectural Control Authority, When Empowered, may charge a reasonable review fee for its initial review, the amount of which shall be established by the Developer or the Architectural Control Authority in the Architectural Guidelines, from time to time. The Developer or the Architectural Control Authority, When Empowered, may at its option, employ outside professional services for initial review and may pay them accordingly for this service. The charging of fees and the hiring of professionals for this purpose by the Architectural Control Authority must be approved by the Developer or the Board of Directors of the Association, When Empowered. Subsequent reviews may require additional fees.

(c) APPROVAL BY THE DEVELOPER, BOARD OF DIRECTORS OR THE ARCHITECTURAL CONTROL AUTHORITY, WHEN EMPOWERED, OF ANY PLANS AND SPECIFICATIONS OR THE GRANTING OF A VARIANCE WITH RESPECT TO ANY OF THE ARCHITECTURAL GUIDELINES AND REGULATIONS, WHEN ESTABLISHED, SHALL NOT IN ANY WAY BE CONSTRUED TO SET A PRECEDENT FOR APPROVAL, ALTER IN ANY WAY THE PUBLISHED ARCHITECTURAL GUIDELINES, WHEN ESTABLISHED, OR BE DEEMED A WAIVER OF THE DEVELOPER'S OR OF THE ARCHITECTURAL CONTROL AUTHORITY'S, WHEN EMPOWERED, RIGHT IN ITS DISCRETION, TO DISAPPROVE SIMILAR PLANS AND SPECIFICATIONS, USE OF ANY STRUCTURE OR ANY OF THE FEATURES OR ELEMENTS WHICH ARE SUBSEQUENTLY SUBMITTED FOR USE IN CONNECTION WITH ANY OTHER LOT. Except for the right of the Developer or Board Of Directors to approve or disapprove the Plans on appeal, approval of the Plans relating to any Lot or Area of Extended Lot Owner Responsibility shall be final as to that Lot or Area of Extended Lot Owner Responsibility and such approval may not be reviewed or rescinded thereafter by the Architectural Control Authority, provided that there has been adherence to, and compliance with the Plans as approved in writing, and any conditions attached to any such approval and the Regulations.

(d) The Developer or Architectural Control Authority, When Empowered, may, at its option, require the Owner to make a deposit to insure compliance with the approval or the Regulations in an amount and upon conditions to be determined by the Developer or Architectural Control Authority, When Empowered. The setting of an amount as a compliance deposit or of conditions for compliance for any one Lot, shall not in any way act to set a precedent or effect in any way the setting of an amount or conditions of compliance for any other Lot or for any other set of Plans which are to be or have been approved within the Architectural Control Authority. The terms for waiver of any deposit and for the determination of the deposit amount, conditions of payment and the release to an Owner of any remaining portion of said compliance deposit, shall be defined in the Architectural Guidelines and Regulations. Nothing herein shall be deemed to waive or limit in any way any other remedies of the Developer, including those to insure compliance with the Architectural Guidelines and Regulations, or any Owner under this Declaration or at law.

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(e) NEITHER THE DEVELOPER, ITS AGENTS, EMPLOYEES, DIRECTORS, OFFICERS, NOR ANY OTHER MEMBER OF AN ARCHITECTURAL CONTROL AUTHORITY, SHALL BE RESPONSIBLE OR LIABLE IN ANY WAY FOR THE DEFECTS, STRUCTURAL OR OTHERWISE, IN ANY PLANS OR SPECIFICATIONS APPROVED BY THE DEVELOPER OR THE ARCHITECTURAL CONTROL AUTHORITY, WHEN EMPOWERED, NOR FOR ANY DEFECTS IN ANY WORK DONE ACCORDING TO THE PLANS AND SPECIFICATIONS APPROVED BY THE DEVELOPER, THE BOARD OF DIRECTORS OR ARCHITECTURAL CONTROL AUTHORITY, WHEN EMPOWERED. FURTHER, NEITHER THE DEVELOPER, THE ASSOCIATION, ARCHITECTURAL CONTROL AUTHORITY, OR THEIR RESPECTIVE SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR ATTORNEYS SHALL BE LIABLE TO ANYONE BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, MISFEASANCE, MALFEASANCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS OR THE EXERCISE OF ANY OTHER POWER OR RIGHT OF THE DEVELOPER OR THE ARCHITECTURAL CONTROL AUTHORITY PROVIDED FOR IN THIS DECLARATION. EVERY PERSON WHO SUBMITS PLANS AND SPECIFICATIONS TO THE DEVELOPER OR THE ARCHITECTURAL CONTROL AUTHORITY, WHEN EMPOWERED, FOR APPROVAL AGREES, BY SUBMISSION OF SUCH PLAN AND SPECIFICATIONS, AND EVERY OWNER OF ANY LOT AGREES, THAT HE WILL NOT BRING ANY ACTION OR SUIT AGAINST THE DEVELOPERS, THE ASSOCIATION, THE MEMBERS, OR ITS BOARD OF DIRECTORS OR THEIR AGENTS, EMPLOYEES AND OFFICERS, OR ANY MEMBER OR AGENTS OF THE ARCHITECTURAL CONTROL AUTHORITY, TO RECOVER ANY DAMAGES ARISING OUT OF SUCH APPROVAL OR DISAPPROVAL, AND, EACH OWNER BY ACCEPTANCE OF THE DEED TO THE LOT, RELEASES, REMISES, QUIT CLAIMS, AND COVENANTS NOT TO SUE FOR, ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH SUCH APPROVAL OR DISAPPROVAL, TO THE EXTENT NOT OTHERWISE PROHIBITED BY LAW.

**ARTICLE VIII
OWNER'S MAINTENANCE RESPONSIBILITIES**

Section 1. OWNER'S MAINTENANCE RESPONSIBILITIES. Unless specifically identified herein or specifically elected by the Developer or the Board of Directors, When Empowered, as being the responsibility of the Association, all maintenance and repair of a Lot or Area of Extended Lot Owner Responsibility, together with all portions of the Dwelling, and



other Structures on the Lot, including without limitation landscaping maintenance, shall be the responsibility of the Owner of such Lot. The responsibility of each Owner shall include, but not be limited to, the painting, maintenance, repair, and replacement of walls or fences, and all siding, exterior doors, fixtures, mailboxes, equipment, and appliances (including, without limitation, the heating and air-conditioning system for the Dwelling) and all chutes, flues, ducts, conduits, wires, pipes, plumbing or other apparatus which are deemed to be a part of the Dwelling or Lot or Area of Extended Lot Owner Responsibility, and the lawns, trees, shrubs, fences, grass, driveways, walkways or sidewalks and any other landscaping component on the Lot or Area of Extended Lot Owner Responsibility. The responsibility of the Owner shall also include, but not be limited to, the maintenance, repair, and replacement of all glass, lights and light fixtures (exterior and interior), awnings, window boxes, window treatments, window screens, and all screens or glass-enclosed porches, balconies, or decks which are a part of the Dwelling. Each Owner shall also maintain roof, gutters and downspouts in a good state of repair. In addition, each Owner shall maintain their trash receptacles in such a manner as to prevent any foul or unpleasant odors from disturbing others, or odors that may attract animals. The Developer and the Association, When Empowered, shall have the authority to enforce an Owner's maintenance responsibilities under this Article, pursuant to remedies set forth in this Declaration.

Section 2. OWNER MUST PROVIDE INSURANCE OF DWELLING. Each Owner shall, at its own expense, insure the Dwelling and all other insurable improvements on the Lot in an amount not less than the then current maximum insurable replacement value thereof. Such coverage shall afford protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsements and such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism, malicious mischief, windstorm and water damage.

Section 3. RECONSTRUCTION OR REPAIR OF DAMAGED DWELLING. If any Dwelling shall be damaged by casualty, the Owner of such Dwelling shall promptly reconstruct or repair it so as to restore such Dwelling nearly as possible to its condition prior to suffering the damage. The debris therefrom must be removed and the Dwelling and Lot restored to a neat condition as soon as reasonably practical, but no later than sixty (60) days after the date of such damage. Debris not removed within sixty (60) days shall be deemed a nuisance pursuant to Article II, Section 5 herein. All such reconstruction and repair work shall be done in accordance with plans and specifications therefor, approved by the Developer, or Board of Directors, When Empowered. Encroachments upon or in favor of Dwelling or Lots, which may be necessary for or created as a result of such reconstruction or repair, shall not constitute a claim or basis of a proceeding or action by the Owner on whose Dwelling or Lot such encroachment exists, provided that such reconstruction or repair is done substantially in accordance with the plans and specifications approved by the Developer, or Architectural Control Authority, When Empowered, or as the building was originally constructed.

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ARTICLE IX
GRADING, DRAINAGE, EROSION CONTROL AND MINOR DRAINAGE

Section 1. GENERAL GRADING, DRAINAGE AND EROSION CONTROL. For purposes of this article, the responsibilities hereinafter described of an owner of a lot shall include the corresponding Area of Extended Lot Responsibility, in addition to the Lot itself. The total responsibility for and cost of compliance with this section of the Declaration shall be that of the owner of the Lot. Any or all of the responsibility of the Developer as a Lot owner for drainage and erosion control on or from a Lot and for the cost thereof may, if so stated in that agreement, be transferred through the execution of a written agreement between the Developer and an individual or entity purchasing that Lot. The Developer, or the Association, When Empowered, shall have as remedies for non-compliance, the levying of Assessments for non-compliance against that lot, the authority to enter the lot and take appropriate action to remedy the violation or the authority to bring legal action to force the owner of the Lot to comply with the terms set out herein. In the event that the Developer or the Association takes such action to assure compliance, as with other violations of the Declaration, all costs incurred by the Developer or the Association related to bringing the Lot or Area of Extended Lot Owner Responsibility into compliance shall be that of the Lot owner and collectable by the Developer from the Lot owner or if by the Association, shall be made a part of the Association's continuing lien on the Lot.

All grading, during and after construction, shall at all times be performed in accordance with (a) any applicable portions of the storm water management plan, or any sediment and erosion control plan, grading and drainage plan, pollution prevention plan or any other applicable plan which may be on file with the Developer or Association, or filed with any applicable governmental agency and/or (b) any other applicable legislation, law, statute or ordinance governing the control of drainage, including the latest ordinances issued by the North Carolina Department of Environmental and Natural Resources. It shall at all times be the responsibility of the Owner or co-owner of the Lot or, in the case of the contractual transfer of the responsibility for compliance directly from the Developer to an individual or entity, that individual or entity, to request and review all such applicable plans. Unless such a request is made by said Lot owner, co-owner, individual or entity, failure on the part of the Developer or Association to supply that Lot owner, co-owner, individual or entity with copies of the applicable plans shall not be a defense for non-compliance or release of responsibility on the part of that Lot owner, co-owner, builder, individual or entity. Any Lot owner, co-owner, including builders, or builder, by acceptance of the deed to a Lot, and at all times thereafter, shall have been deemed to have agreed to and accepted the responsibility established by a co-permittee agreement and to have assumed the responsibilities of a co-permittee and be bound to the above mentioned plans and indemnify and hold the Developer, the Association and the Architectural Control Authority harmless from any and all deviations by the Lot owner, co-owner, or their builder from that plan

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or from the Lot owner's, co-owner's or builder's failure to comply with this Declaration or any applicable legislation, laws, statutes or ordinances, whether such language is included in that deed, contract, or acceptance or assignment document or whether they have executed a "co-permittee agreement" or not.

All temporary and permanent grading shall be performed in a manner to allow for proper drainage, to properly manage the flow of stormwater run-off and to control erosion. During and after construction, Owner (and during construction, Owner's building contractor) shall be responsible for maintaining all grading and drainage to prevent the damming of water, increased runoff, or erosion that results in sediment loss. In no case shall sediment be allowed to wash onto or accumulate on adjacent lots, adjacent properties, into bodies of water, onto the streets of the community or into the storm drainage system; or to adversely affect any of these areas or structures. Lot owner and lot owner's building contractor shall provide rip-rap, gravel exits, water bars, berms, sediment fences, hydroseeding, sod, or other forms of erosion control as may be required by the Developer, the Association, or the Architectural Control Authority or any governmental agency.

Owner (and owner's building contractor upon completion of construction) shall insure that the grade of the Lot and Area of Extended Lot Owner Responsibility, and any adjustment to that grade thereafter, does not cause the depth of any utilities installed upon the Lot or Area of Extended Lot Owner Responsibility to be reduced to less than the standard set forth by the utility provider or any applicable code, statute or law, whichever may be deeper.

Section 2. Minor Drainage. Minor Drainage, defined as drainage pipe/piping or system draining more than one Lot and that is not accepted for maintenance by any county or municipality or other like entity, may be accepted for maintenance by the Association, provided, however, that in the event that an Owner neglects or fails to keep the Minor Drainage located on their Lot or Area of Extended Lot Owner Responsibility free and clear of obstructions or blockage or if an Owner shall damage or destroy any portion of the Minor Drainage system on their Lot or Area of Extended Lot Owner Responsibility, the Developer or the Association, When Empowered, may in addition to any other remedy, enter the Lot or Area of Extended Lot Owner Responsibility and clear any obstruction of and repair any damage to the Minor Drainage system structures on the lot or Area of Extended Lot Owner Responsibility. The determination as to whether the Association assumes maintenance responsibility for any portion of the Minor Drainage system located on a Lot or Area of Extended Lot Owner Responsibility shall be that of the Developer as long as it owns any portion of the Property. Thereafter, the determination as to whether the Association assumes maintenance responsibility for any portion of the Minor Drainage system located on a Lot or Area of Extended Lot Owner Responsibility and at all times as to whether an Owner has neglected or failed to keep any portion of the Minor Drainage system located on their Lot or Area of Extended Lot Owner Responsibility free and clear of obstructions or blockage or has damaged or destroyed the Minor Drainage structures on the Lot or Area of Extended Lot Owner Responsibility shall be made by



the Developer or the Board of Directors of the Association, When Empowered, or by an entity Authorized to do so by the Developer or the Board of Directors of the Association, When Empowered, in its sole discretion. In the event that the Association determines that the need for maintenance, repair or replacement of the Minor Drainage, whether such Minor Drainage system or a portion thereof is accepted for maintenance by the Association or not, is caused through the willful or negligent act of an Owner, or the family, guests, employees, lessees, or invitee(s) of any Owner, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs thereof, together with any assessments for non-compliance levied by the Association for non-compliance and all costs of the collection shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot of such Owner. Each owner is responsible for the actions of and the compliance with these documents and the regulations by the family, guests, lessees, employees or invitee(s) of that Owner and shall further be responsible for the payment of any assessments levied for that non-compliance and all costs associated thereto.

ARTICLE X
REMEDIES

Section 1. REMEDIES FOR NONPAYMENT OF ASSESSMENTS. Any Assessments not paid by the due date shall bear interest from the due date at the rate of sixteen percent (16%) per annum or, if sixteen percent (16%) is higher than allowed by law, then the highest rate allowed by law. Said interest shall be charged at the discretion of the Developer or the Association's Board of Directors, When Empowered. In addition, the Developer or the Board of Directors of the Association, When Empowered, shall have the right to charge an Association collection fee or late charge on any Assessment or installment thereof which shall not have been paid by its due date. In the event that the Developer or the Board of Directors of the Association, When Empowered, chooses an installment schedule for the method of payment for an Assessment or as a method of allowing an Owner to pay past due Assessments, and in the event that any installment is delinquent, the Developer or the Board of Directors of the Association, When Empowered, shall have the right to accelerate and immediately make due all or part of the Assessment due from that Owner of that Lot for that budgeted period. The Developer or the Board of Directors of the Association, When Empowered, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the Lot(s) in the same manner as prescribed by the laws of the State of North Carolina for the foreclosure of mortgages and deeds of trust by judicial proceedings, and may seek a deficiency judgment, and interest, court costs, all costs of collection, including reasonable attorney's fees. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot, nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the Assessments provided for herein. No disagreement on the part of any Owner with respect to the



budget; the amount or installment schedule for any Assessment; any change to the amount or installment schedule for the Assessment; the Regulations established or amended by the Developer or the Board of Directors of the Association, When Empowered; the actions or lack of action on the part of the Developer or the Association; the purpose for any Assessment for Capital Repair or Improvements; or the amount or purpose of any Assessment for Budgetary Shortfall shall be reason for any Owner to fail to pay any Assessment at the time that it is due. Also, the Developer or Board of Directors of the Association, When Empowered, may at any time notify the holders of mortgages and deeds of trust of the Lot of the failure of the Owner to pay Assessments or any other violation of the Declaration.

Section 2. REMEDIES FOR FAILURE TO MAINTAIN EXTERIOR OF DWELLING AND LOT. In the event that the Owner neglects or fails to maintain his Lot, Area of Extended Lot Owner Responsibility, and/or the exterior of his or her Dwelling in the Community, the Developer or the Association, When Empowered, may in addition to any other remedy, provide such exterior maintenance. The Developer or the Association, When Empowered, shall first give written notice to the Owner of the specific items of the exterior maintenance or repair that the Association intends to perform and the Owner shall have the time set forth in said notice within which to perform such exterior maintenance himself or to satisfy the Association that the required maintenance or repair will be completed in a timely manner. The determination as to whether an Owner has neglected or failed to maintain his Lot, Area of Extended Lot Owner Responsibility, and/or Dwelling in a manner consistent with other Lots, Areas of Extended Lot Owner Responsibility and Dwellings in the Community shall be made by the Developer or the Board of Directors of the Association, When Empowered, in its sole discretion, or an entity authorized to do so by the Developer or the Board of Directors of the Association, When Empowered.

In the event the Association performs such exterior maintenance, repair or replacements repair, the costs of such maintenance, repairs or replacement together with all costs of collecting from the Owner the cost of such maintenance, repairs or replacement established herein shall be added to and become a part of the Assessment to which that Lot is subject.

In the event that the Association determines that the need for maintenance, repair or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the family, guests, employees, lessees, or invitee(s) of any Owner, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs thereof, together with any Assessments for Non-Compliance levied by the Association for non-compliance and all costs of the collection shall be added to and become a part of the Assessment to which such Owner is subject and shall become a lien against the Lot of such Owner. Each Owner is responsible for the actions of and the compliance with these documents and the Regulations by the family, guests, lessees, employees or invitee(s) of that Owner and shall further be responsible for the payment of any Assessments levied for that non-compliance.

Section 3. ADDITIONAL REMEDIES.

(a) Enforcement of the Declaration, By-Laws of the Association, and the Regulations in addition to any other remedy set out herein, may be carried out by the Developer, the Association, When Empowered, or the Owner through any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction in the Declaration, By-Laws, or Regulations established by the Developer or the Association, When Empowered, either to prevent or restrain violations, to recover damages or to compel a compliance to the terms thereof. Any failure by the Developer, the Association, When Empowered, or any Owner to enforce any covenant or restriction herein contained or contained in the Declaration or By-Laws or to enforce any of the Regulations shall in no event be deemed a waiver of a right to do so thereafter. In addition to the foregoing, the Developer or the Board of Directors of the Association, When Empowered, shall have the right wherever there shall have been built on any Lot or Area of Extended Lot Owner Responsibility any Structure which is in violation of the Declaration, Architectural Guidelines or Regulations to enter upon the Lot or Area of Extended Lot Owner Responsibility where such violation exists and summarily abate or remove the same at the expense of the Owner, including without limitation the right to cease current construction and enjoin further construction, if after written notice of such violation, it shall not have been corrected by the Owner within the time required by the notice of violation. Any such entry and abatement or removal shall not be deemed a trespass.

(b) The Developer or the Association, When Empowered, may, in addition to any other remedy, suspend the Common Area enjoyment rights of any Owner, their family members, lessees, invitees, licensees, employees or guests, or any of their pets or animals, for an appropriate period of time to be determined on a case by case basis by the Developer or the Board of Directors, When Empowered, for any non-compliance with the provisions of this Declaration, the By-Laws or of the Regulations. The right, however, of a Member to ingress and egress over the roads and/or parking areas shall not be suspended if they provide necessary access to their Lot.

(c) The Owner grants to the Developer and the Association the right and permission to enter the Lot to remove or correct any violation of the Declaration, By-Laws or Regulations, including but not limited to, the maintenance of Lots, Areas of Extended Lot Owner Responsibility or any Structure (as defined in Article I, Section 1) thereon, and the removal of abandoned automobiles from any portion of the Property considered by the Board of Directors to be in violation with the Regulations, Declaration, By-Laws or to be a nuisance.

(d) In addition to the remedies outlined in this Article, the Developer or the Association, When Empowered, may, but shall not be required to, enter upon any Lot(s), Area of Extended Lot Owner Responsibility or Common Area, seize and deliver to the animal control authority at the Owner's cost, any animal declared to be a nuisance and for which an emergency



exists requiring immediate and prompt seizure and control of the animal. The departure, while not under the restraint of a leash or fence, of any animal from the Lot of its Owner, shall immediately constitute an emergency and there shall be no requirement for notice to be given.

(e) In addition to the remedies outlined above in this Article, the Developer, or the Association, When Empowered, shall have the right to arrange for the removal, at the Owners expense, of any vehicle that is parked in violation of the Declaration or the Regulations after notice to the Owner of the Lot on or beside which the vehicle is parked. Notice of non-compliance shall be given to any Owner where the parking of a vehicle or vehicles, except when said non-compliance creates an emergency as determined by the Developer or the Board of Directors of the Association, When Empowered. The parking of a vehicle which impedes the passage of any emergency vehicle or school bus, shall immediately constitute an emergency and there shall be no requirement for notice to be given.

(f) In addition to the remedies outlined above in this Article, the Developer, or the Association, When Empowered, shall have the right to deny any and all services provided by the Association to its Members, including without limitation review and/or approval of architectural plans by the Architectural Control Authority, to those Members who are not in compliance with the terms of the Declaration, the By-Laws, the Architectural Guidelines, or the Regulations, including without limitation those Members who owe past due Assessments, until such time as the Member comes back into compliance in the sole discretion of the Developer, or the Board of Directors, When Empowered.

(g) With regard to Owners of multiple Lots in the Community, including without limitation builders, and in addition to the remedies outlined above in this Article, the Developer, or the Association, When Empowered, shall have the right to apply delinquent Assessment amounts owed on one or more of the Owner's Lots to the Association's all-encompassing lien over all the Lots in the Community owned by that Owner, and the Developer and the Association, When Empowered, shall possess all the rights and powers of remedying delinquent Assessments and enforcing its continuing lien on the Lots as set forth in the provisions of this Declaration. The Association's all-encompassing lien over said Lots shall not be released on the individual Lots it covers until any and all Assessment delinquencies for all the Owner's Lots have been remedied by the Owner, unless otherwise authorized by the Developer or the Association, When Empowered. If such a Lot is sold without payment of its delinquent assessments, the Association may apply that delinquent amount to its all-encompassing lien over that Owner's remaining Lots in the Community.

(h) All costs incurred by the Developer (in its capacity as a Class "B" Member) or the Association, When Empowered, as a result of any violation(s) of any provision of this Declaration, the Architectural Guidelines, or the Regulations, including without limitation all costs of collection and attorney's fees, shall be a lien upon the affected property and a personal obligation of the applicable Owner.



Section 5. DEVELOPER’S CLASS “C” MEMBERSHIP ENFORCMENT REMEDIES.

(a) In addition to the remedies outlined above in this Article and in addition to any other remedies or rights reserved to the Developer under a previously recorded document affecting the Property or a portion thereof, the Developer’s right to enforce the provisions of this Declaration, the By-Laws, the Architectural Guidelines, and the Regulations shall extend for as long as the Developer owes any duties or obligations to a governmental body, district, agency, or authority exercising jurisdiction over a portion of the Property, even if the Developer has already turned over control of the Association to a Member-elected Board of Directors and even if one hundred percent (100%) of the Lots have been conveyed by the Declarants and/or Developer to Owners other than builders or investors holding title for purposes of development and/or sale to third party purchasers, or when the Class B Membership terminates, whichever occurs first (i.e., Class “B” Membership has converted to Class “C” Membership), PROVIDED that the Developer may exercise the extended enforcement rights described in this Section only for the specific purpose of (1) responding to a request or demand of a governmental body, district, agency, or authority exercising jurisdiction over a portion of the Property or (2) in the sole discretion of the Developer, preventing an anticipated request or demand of a governmental body, district, agency, or authority exercising jurisdiction over a portion of the Property.

(b) The Developer may exercise its extended enforcement powers described in this Section: (1) through the Association, whereby the Association exercises its enforcement powers under this Declaration in order to adequately respond to, or attempt to prevent, the request or demand of a governmental body, district, agency, or authority; or (2) independently of the Association, whereby the Developer exercises any and all enforcement powers reserved to it under the Declaration in order to adequately respond to, or attempt to prevent, the request or demand of a governmental body, district, agency, or authority, including without limitation the right to enter any portion of the Property to remedy a violation, the right to impose Assessments for Non-Compliance and the right to file a lien upon the Lot of the Owner against whom enforcement is being sought for the amount of such Assessments, and the right to bring any and all other legal actions to force compliance by an Owner. In the event the Developer exercises said extended enforcement powers, all costs incurred by the Developer, including reasonable attorneys fees, shall be the responsibility of the Lot Owner(s) against whom enforcement was sought and shall be added to the lien filed by the Developer against said Lot Owner, if applicable. The provisions of this Section provide the Developer with the option of exercising extended enforcement powers under the Declaration as a Class “C” Member, however they do not impose any duty or obligation upon the Developer to do so.

ARTICLE XI
ANNEXATION OF ADDITIONAL PROPERTY OR REMOVAL OF PROPERTY
AS SUBJECT TO THIS DECLARATION



Through the date of the earlier of: (1) December 31, 2012, or (2) when one hundred percent (100%) of the Lots have been conveyed by the Declarants and/or Developer to Owners other than builders or investors holding title for purposes of development and/or sale to third party purchasers, whichever date occurs first, the Developer shall have the right to annex additional property into the Property by the filing of an amendment or addendum to this Declaration describing the property annexed and imposing this Declaration upon such property, and if said property is not then owned by the Developer, by an instrument of Joinder and Consent by the property owner thereof in the same form included as part of Exhibit "B" hereto. All property annexed in this manner shall be a part of the Property and Community as fully as if it had been a part thereof from the filing of this Declaration. As property is added to the Community, if any, the Lots comprising such additional property shall be counted for the purpose of voting rights. So long as the Developer or Declarants hereto own any portion of the Property, the Developer shall have the right to remove portions of the Property from the operation of the Declaration by filing an amendment or addendum to this Declaration describing the portion of the Property removed and releasing said portion from this Declaration, provided, however, that the Developer obtains the written consent of the Declarant property owner who originally consented and joined such portion of the property such that it was originally subjected to this Declaration.

**ARTICLE XII
GENERAL PROVISIONS**

Section 1. DURATION. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the sole benefit of and be enforceable by the Developer, so long as the Developer owns any portion of the Property, and thereafter to the Association. All covenants, conditions, limitations, restrictions, and affirmative obligations set forth in this Declaration, and amended as provided in Sections 5 and 6 of this Article from time to time, shall be binding and run with the land and continue until twenty one (21) years from the date of execution hereof, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by two-thirds (2/3) of the then Owners affected by the same has been recorded, agreeing to change the same in whole or in part; provided, however, that all property rights and other rights reserved to the Developer shall continue forever to the Developer, except as otherwise herein provided.

Section 2. NOTICE. Any notice required to be sent to any Member or Owner under the provision of this Declaration and service of any legal proceedings shall be deemed to have been properly sent and received when personally delivered or mailed, postage paid, to the last known address of the person who appears as that person authorized to receive notice or to vote as shown on the records of the Association at the time of such mailing. It shall at all times be the responsibility of



any Owner to file written notice with the Association of the name and address of the person authorized to receive notification from the Association or the Developer as to Assessments, or infractions of the Regulations. Proof of the authority to receive notice and to vote shall be presented to the Association in the form of a certificate signed by the Owner of a Lot or by copy of a "HUD-1" form Settlement Statement at the time of the Owner's acquisition of the Lot and/or Dwelling Unit. Such certificate shall be deemed valid until revoked by a subsequent certificate. The Association shall be under no obligation to send notice or service to any other address. If the Owner does not file such certificate, the notice or service shall be sufficient if delivered, posted, or by mail with postage paid, to the Lot.

Section 3. SETTLEMENT STATEMENT AUTHORIZATION. The Owner by acceptance of the deed authorizes and directs the closing attorney to provide the Association with a copy of the Settlement Statement from the closing transferring the Lot and/or Dwelling to the Owner.

Section 4. SEVERABILITY. In the event that any one or more of the foregoing conditions, covenants, restrictions, or reservations shall be declared for any reason by a court of competent jurisdiction to be null and void, such judgment or decree shall not in any manner whatsoever effect, modify, change, aberrant, or nullify any of these covenants, conditions, and restrictions not so declared to be void but all remaining covenants, conditions, reservations and restrictions not so expressly held to be void shall continue unimpaired and in full force and effect.

Section 5. AMENDMENT. With respect to the minimum square footage requirements in the Community, the Developer reserves the right to alter, from time to time, the minimum square footage requirements as established by the Developer or as set out the Architectural Guidelines and Regulations, when established. In addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges, and liens for this Agreement may be amended, changed, added to, derogated or deleted at any time and from time to time upon the execution and recordation of any instrument executed by Owners holding not less than a majority of votes of the Owners of the Membership of the Association, provided that so long as the Developer is the Owner of any Lot affected by this Declaration, the Developer's consent must be obtained. Provided, further, that the provisions for voting of Class A and Class B Members as herein contained in this Declaration shall also be effective in voting changes in this Declaration. Without limiting the foregoing, the Association, and so long as the Developer owns at least one (1) Lot in the Community, the Developer or the Board of Directors, When Empowered, shall, at any time and from time to time as the Developer or Board of Directors, When Empowered, see fit, have the right to cause this document to be amended to correct any clerical or scrivener's error(s) or to conform to the requirements of the Federal Housing Administration or the Veterans Administration or the Federal National Mortgage Corporation, FNMA or any other insurer or purchaser of mortgage secured by the Lots as the same may be amended from time to time.

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Section 6. AMENDMENT BY DEVELOPER. In addition to any other right to amend as set out herein, as long as the Developer owns any portion of the Property, the Developer may amend and/or restate this Declaration without the consent of the Owners, their mortgagees, or the Association. Subject to the Declaration, every purchaser or grantee of any Lot or Common Area now and hereafter, by acceptance of a deed or other conveyance thereof, agrees that the Declaration may be amended as provided herein and such amendment shall be applicable to and binding upon the Owners and the Lots. At the option and sole discretion of the Developer, for so long as the Developer owns any portion of the Property, any and all amendments to this Declaration made under the authority of this Section may apply: (i) upon the day of execution or recording; (ii) retroactively to the date of this Declaration or to some other specified date in the amendment; or (iii) prospectively to some specified date in the amendment.

Section 7. EFFECTIVE DATE. This Declaration shall become effective upon its recordation in the office of The Register of Deeds for Wilkes County, North Carolina.

Section 8. PAID PROFESSIONAL MANAGER. The Developer or the Board of Directors, When Empowered, may employ a manager or managerial firm to supervise all work, labor, services, and material required in the operation and maintenance of the Common Area and in the discharge of the Association's duties throughout the Community.

Section 9. BINDING EFFECT. This Declaration shall inure to the sole benefit of the Developer for so long as the Developer owns any portion of the Property, and thereafter to the Association. This Declaration shall be binding upon the parties hereto, including without limitation all Owners, and the purchasers of Lots, their heirs, personal representatives, successors and assigns. At the option and sole discretion of the Developer, for so long as the Developer owns any portion of the Property, any and all amendments to this Declaration made under the authority of Section 6 of this Article may apply: (i) upon the day of execution or recording; (ii) retroactively to the date of this Declaration or to some other specified date in the amendment; or (iii) prospectively to some specified date in the amendment.

Section 10. WAIVER. The failure to enforce any rights, reservations, restrictions, or conditions contained in this Declaration, however long continued, shall not be construed to constitute a precedent or be deemed a waiver of the right to do so hereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

Section 11. ATTORNEY'S FEES AND COST. Should the Developer or the Association employ counsel to enforce the Declaration, or the reasonable rules, regulations and policies established or amended by the Developer or the Board of Directors from time to time because of a breach of the same, all costs incurred in such enforcement, including a reasonable fee for the Developer's or the Association's counsel and other reasonable costs of collection, shall be paid by the Owner of such Lot or Lots in breach thereof.

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Section 12. DEVELOPER LIABILITY AND HOLD HARMLESS. The Developer herein shall not in any way or manner be liable or responsible for any violation of the Declaration by any person other than itself. The Owners and the Association shall hold harmless the Developer from any liability, loss or cost arising out of their or their agents, guests or invitees violation of the Declaration.

Section 13. SAFETY AND SECURITY. Each Owner and their respective visitors, invitees, and guests, shall be responsible for their own personal safety and the security of their property in the Community. The Developer and the Association, When Empowered, shall have no duty to enhance the level of safety or security which each person provides for himself or herself and his or her property, nor shall the Developer or the Association, When Empowered, have any duty to respond to a safety or security problem if provided notice of such, although nothing herein shall prevent the Developer or the Association, When Empowered, from voluntarily (1) passing on such notification to the proper law enforcement or governmental authorities, (2) responding in some other manner to protect safety or security, or (3) taking action to enhance the level of safety or security in the Community. Neither the Developer nor the Association, When Empowered, shall in any way be considered insurers or guarantors of safety or security with the Community, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or failure to respond adequately to a security problem or the dangerous or hazardous condition of the Property. Each Owner acknowledges, understands, and shall be responsible for informing its occupants, visitors, invitees, and guests that the Developer, the Association, When Empowered, and its Board of Directors and Committees are not insurers or guarantors of security or safety and that each person with the Community assumes all risks of personal injury and loss or damage to property, including Dwellings and the contents therein, resulting from acts of third parties or from any dangerous or hazardous condition. Each Owner also acknowledges, understands, and shall inform its occupants, visitors, invitees, and guests that they are responsible for contacting the appropriate public authorities directly when safety or security problems arise.

Section 14. TIME REDUCTION. In the event that any of the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which same shall be effective, then and in that event such terms shall be reduced to a period of time which shall not violate the rule against perpetuities or any other law of the State of North Carolina and such provisions shall be fully effective for such period of time.

Section 15. MANDATORY MEDIATION. The Owner and the Association by acceptance of a deed agree that any dispute arising out of use, occupancy, ownership of a Lot or on the Common Area or the enforcement of any covenant, condition, rule or restriction or regulation and any complaint to the Developer shall be first subject to mediation. Mediation shall occur by process and procedure as either agreed upon by the parties, or through the availing

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of mediation if and as available through the Courts for the state and jurisdiction in which the Property is located. Except as may otherwise be agreed upon by the parties prior to or during the course of mediation, the cost of mediation shall be shared equally by all parties to the dispute.

Section 16. ASSIGNABILITY OF RIGHTS AND POWERS. By the filing of a document in the Wilkes County Register of Deeds Office or by providing notice, the Developer or the Association, When Empowered, may assign, either permanently or temporarily or in part or in whole, any or all of the rights and powers granted or arising from the Declaration to one or more entities or persons without the consent of any Owner. The Developer or the Association, When Empowered, may delegate any of the above-stated powers and rights to the same extent as it may assign them without any recording or notice requirements.

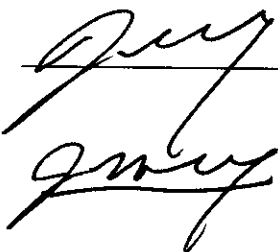
IN WITNESS WHEREOF, the Developer and Declarants has caused this instrument to be executed by its proper officers and its corporate seal to be affixed thereto on the day and year first above written.

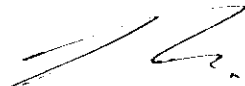
SIGNED SEALED AND DELIVERED
in the presence of:

DEVELOPER:

**WILKES MOUNTAIN DEVELOPMENT
COMPANY, LLC**

(SEAL)



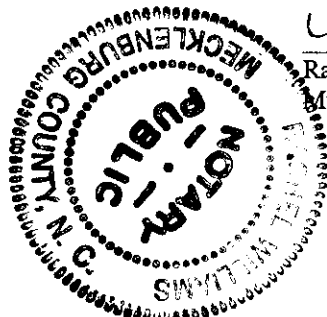
By: 
Its: Manager

ITS: Manager



State of North Carolina - County of Mecklenburg

I, Rachel Williams, a Notary Public of the County and State aforesaid, certify that Bonn A. Gilbert, Jr., Manager of Wilkes Mountain Development Company, LLC personally appeared before me this day and acknowledged the execution of the foregoing instrument in writing by himself for Wilkes Mountain Development Company, LLC, a limited liability company, for the uses and purposes herein set forth. Witness my hand and official stamp or seal, this 31st day of July, 2008.



Rachel Williams
Rachel Williams, Notary Public
My Commission Expires: 11/02/2008

ORIGINAL NOTARY SEAL
NOT CLEAR

State of North Carolina - County of Mecklenburg

I, Rachel Williams, a Notary Public of the County and State aforesaid, certify that Kevin Berzack, Manager of Wilkes Mountain Development Company, LLC personally appeared before me this day and acknowledged the execution of the foregoing instrument in writing by himself for Wilkes Mountain Development Company, LLC, a limited liability company, for the uses and purposes herein set forth. Witness my hand and official stamp or seal, this 31st day of July, 2008.



Rachel Williams
Rachel Williams, Notary Public
My Commission Expires: 11/02/2008

ORIGINAL NOTARY SEAL
NOT CLEAR

EXHIBIT "A"
LEGAL DESCRIPTION

BEING all of Lots 1 through 37 of Timber Ridge, Elk Township, Wilkes County,
more particularly described in Plat Book 10, Pages 429-435 of the Wilkes County
Registry.

****LOTS INCLUDED IN DESCRIPTION OF PROPERTY ABOVE, AND NOT
INTENDED FOR FUTURE SUBDIVISION/DIVISION IN ACCORDANCE WITH
THE PROVISIONS OF ARTICLE II, SECTION 8:**

Lot Numbers 1, 16, 24, 26, 32, 36, and 37.

EXHIBIT "B"

JOINDER AND CONSENT
FOR PROPERTY DESCRIBED IN EXHIBIT "A"
NOT OWNED BY DEVELOPER

WHEREAS, this Joinder is given to that Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for the Timber Ridge Community by **H B G B INVESTMENTS, LLC**, a North Carolina limited liability company, (hereinafter "Declarant") as the fee simple owner of a portion of the Property described in Exhibit "A" thereto (hereinafter "the Property"); and

WHEREAS, the within Declaration (to which this Exhibit AB@ is attached) was not executed or filed in the public records prior to the conveyance of the Property to said Declarant; and

WHEREAS, it is the intent and desire of both the Developer, and the within Declarant that the above referenced property, as described in Exhibit "A," be subject to the attached Declaration as if said Declaration had been recorded in the public records prior to the deeds conveying said property to the Declarant herein; and

WHEREAS, Declarant has reviewed the within Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for the Timber Ridge Community. (the ADeclaration@) and is agreeable to having its property subjected to the Declaration.

NOW, THEREFORE, in consideration of \$1.00, the receipt and sufficiency of which are hereby acknowledged, **H B G B INVESTMENTS, LLC**, hereby joins in the Declaration, and declares that the Exhibit "A" property, being a portion owned by it, be subjected to the Declaration and the jurisdiction of the Timber Ridge Homeowners= Association as set forth in said Declaration.

With respect to any mortgage held by the undersigned, this Joinder shall not in any way affect or diminish the lien of the existing mortgage on the property described above nor does the undersigned release or waive any of the covenants contained in its mortgage.

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EXHIBIT "B"

JOINDER AND CONSENT
FOR PROPERTY DESCRIBED IN EXHIBIT "A"
NOT OWNED BY DEVELOPER

WHEREAS, this Joinder is given to that Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for the Timber Ridge Community by H B G B Investments, LLC (hereinafter "Declarant") as the fee simple owner of a portion of the Property described in Exhibit "A" thereto (hereinafter "the Property"); and

WHEREAS, the within Declaration (to which this Exhibit AB@ is attached) was not executed or filed in the public records prior to the conveyance of the Property to said Declarant; and

WHEREAS, it is the intent and desire of both the Developer, and the within Declarant that the above referenced property, as described in Exhibit "A," be subject to the attached Declaration as if said Declaration had been recorded in the public records prior to the deeds conveying said property to the Declarant herein; and

WHEREAS, Declarant has reviewed the within Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for the Timber Ridge Community. (the ADeclaration@) and is agreeable to having its property subjected to the Declaration.

NOW, THEREFORE, in consideration of \$1.00, the receipt and sufficiency of which are hereby acknowledged, H B G B Investments, LLC, hereby joins in the Declaration, and declares that the Exhibit "A" property, being a portion owned by it, be subjected to the Declaration and the jurisdiction of the Timber Ridge Homeowners= Association as set forth in said Declaration.

With respect to any mortgage held by the undersigned, this Joinder shall not in any way affect or diminish the lien of the existing mortgage on the property described above nor does the undersigned release or waive any of the covenants contained in its mortgage.

IN WITNESS WHEREOF, the within Declarant has signed, sealed, and executed this instrument effective this ____ day of April, 2008.

WITNESSES:

DECLARANT:

By: [Signature] Manager HBSB LLC
[Signature], Manager

STATE OF NORTH CAROLINA

COUNTY OF _____

)
)
)

ACKNOWLEDGEMENT

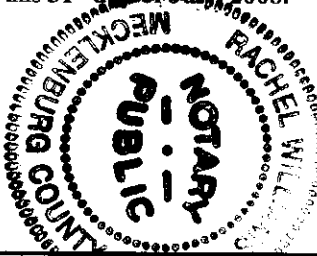
I _____, do hereby certify that
_____, with within said Declarant, by
_____, personally appeared before me this day and acknowledged the due
execution of the foregoing instrument.

Witness my hand and official seal this the ____th day of April, 2008.

_____(SEAL)
Notary Public for North Carolina
My Commission Expires:

State of North Carolina - County of Mecklenburg

I, Rachel Williams, a Notary Public of the County and State aforesaid, certify that Harry L. Berzack, Manager of H B G B Investments, LLC personally appeared before me this day and acknowledged the execution of the foregoing instrument in writing by himself for H B G B Investments, LLC, a limited liability company, for the uses and purposes herein set forth. Witness my hand and official stamp or seal, this 31st day of July, 2008.



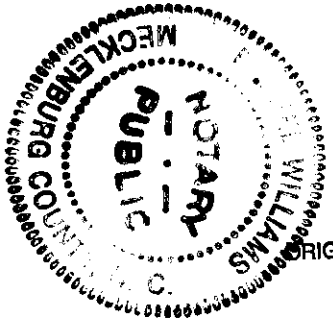
Rachel Williams

Rachel Williams, Notary Public
My Commission Expires: 11/02/2008

ORIGINAL NOTARY SEAL
NOT CLEAR

State of North Carolina - County of Mecklenburg

I, Rachel Williams, a Notary Public of the County and State aforesaid, certify that Bonn A. Gilbert, Jr., Manager of H B G B Investments, LLC personally appeared before me this day and acknowledged the execution of the foregoing instrument in writing by himself for H B G B Investments, LLC, a limited liability company, for the uses and purposes herein set forth. Witness my hand and official stamp or seal, this 31st day of July, 2008.



Rachel Williams

Rachel Williams, Notary Public
My Commission Expires: 11/02/2008

ORIGINAL NOTARY SEAL
NOT CLEAR

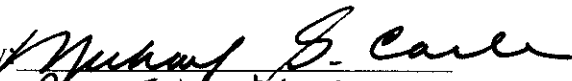
CONSENT OF MORTGAGEE

ATTACHED TO DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, EASEMENTS, AND LIENS FOR
TIMBER RIDGE

NEWDOMINION BANK, being the **Beneficiary** under that certain Deed of Trust from HBGB Investments, LLC to X Holdings, LLC, **Trustee**, recorded in Book 1046 at Page 53, in the Wilkes County, North Carolina, Register of Deeds, conveying the property described on Exhibit A attached to this Declaration, does consent to the recordation of this Declaration and the imposition of the provisions hereof to the real property described in such Exhibit A. The execution of this Consent of Mortgagee by the Beneficiary shall not be deemed or construed to have the effect of creating between the Beneficiary and Declarant the relationship of partnership or of joint venture, nor shall it be deemed to impose upon the Beneficiary any of the liabilities, duties or obligations of Declarant under the Declaration. Beneficiary executes this Consent of Mortgagee solely for the purposes set forth above. The Trustee also joins in and executes this Consent as Trustee for the purposes set forth above.

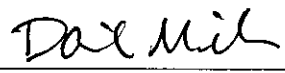
TRUSTEE:

X HOLDINGS, LLC,
a North Carolina limited liability company

By: 
Its: ASST. V. PRES

BENEFICIARY:

NEWDOMINION BANK,
a North Carolina banking corporation

By: 
Its: Vice President

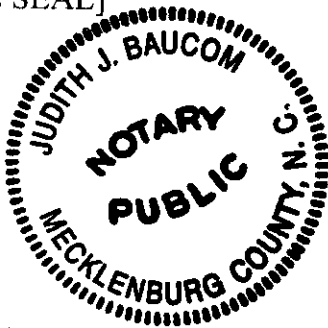
STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

I, JUDITH J. BAUCOM Notary Public of aforesaid county and state, certify that MICHAEL G. CARLE personally came before me this day and acknowledged that (s)he is ASST. V. PRESIDENT of X HOLDINGS, LLC, a North Carolina limited liability company, and that (s)he, as ASST. V. PRESIDENT being authorized to do so, executed the foregoing on behalf of the company.

Witness my hand and official seal, this the 7th day of APRIL, 2008.

Judith J. Baucum NOTARY PUBLIC
My Commission Expires: 5-18-2011
[NOTARIAL SEAL]



STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

I, JUDITH J. BAUCOM, a Notary Public of aforesaid county and state, certify that DAVID MILLER personally came before me this day and acknowledged that (s)he is VICE PRESIDENT of NEW DOMINION BANK, a North Carolina banking corporation, and that (s)he, as VICE PRESIDENT, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 7th day of APRIL, 2008.

Judith J. Baucum NOTARY PUBLIC
My Commission Expires: 5-18-2011
[NOTARIAL SEAL]

