

WAKE COUNTY, NC 185  
LAURA M RIDDICK  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
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DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
MEADOWS AT HIGH GROVE

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

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY  
OF POLITICAL SIGNS.

Prepared by and after recording mail to:

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**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MEADOWS AT HIGH GROVE**, made this 10<sup>th</sup> day of May, 2013 by **Lennar Carolins, LLC**, a Delaware limited liability company, hereinafter referred to as the Declarant;

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in Wake County, North Carolina, which is more particularly described in **Exhibit A** attached hereto (the "Property");

WHEREAS, Declarant is creating on the Property a Planned Community, as defined in the North Carolina Planned Community Act, which shall be a residential community of detached single family homes to be known as Meadows at High Grove; and

WHEREAS, Declarant desires to provide for the preservation and maintenance of the Common Elements (also referred to as Common Areas) and for certain other responsibilities in connection with Meadows at High Grove and to this end desires to subject the Property, together with such additions as may hereafter be annexed thereto, to the covenants, conditions, restrictions, and easements hereinafter set forth, each and all of which is and are for the benefit of Meadows at High Grove and each Owner thereof.

NOW, THEREFORE, Declarant declares that all of the Property described above shall be held, sold, occupied and conveyed subject to the following covenants, conditions, restrictions and easements, all of which are for the purpose of protecting the value and desirability of, and which shall run with such real property, shall be binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. It is the intent of the Declarant that the provisions of this Declaration in all respects conform and comply to the requirements set forth in the North Carolina Planned Community Act, and to the extent any provision contained herein does not conform or comply with the North Carolina Planned Community Act, the provisions of the Act shall control.

**ARTICLE I**

**DEFINITIONS**

**Section 1.** "Association" shall mean and refer to Meadows at High Grove Community Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

**Section 2.** "Board of Directors" or "Board" means the body designated in the Declaration and Bylaws to act on behalf of the Association.

**Section 3.** "Bylaws" shall mean the Bylaws of the Association as they now or hereafter exist.

**Section 4.** "Common Elements" (also sometimes referred to as Common Areas) shall mean and refer to all real property (including the improvements thereto) owned or leased by the

Association for the common use and enjoyment of the Owners. "Lots" are not part of the Common Elements.

Common Elements will include those Common Elements which the Declarant designates as Common Elements on future plats recorded from time to time by Declarant, in its sole discretion. Common Elements will not include future Lots that may be platted from time to time by Declarant, in its sole discretion.

Declarant reserves the right, in its sole discretion, without the consent of the Association or its Members, to convey from time to time such additional Common Elements to the Association, which Common Elements may include portions of any Additional Property annexed by Declarant pursuant to Article X, Section 4, hereof; and the Association shall accept any such conveyance of additional Common Elements; and thereafter, such additional Common Elements shall be held and maintained by the Association.

**Section 5.** "Declarant" shall mean and refer to Lennar Carolinas, LLC, its successors and assigns. Declarant may appoint and designate a successor Declarant by an instrument recorded in the Office of the Register of Deeds of Wake County.

**Section 6.** "Declarant's Development Period" shall mean and refer to the period of time commencing on the date of this Declaration and continuing for so long as the Declarant or any affiliate of Declarant, or any successor Declarant, shall own any Lot within the Property, including any Additional Property annexed pursuant to Article X, Section 4.

**Section 7.** "Dwelling" shall mean and refer to a detached single-family residence constructed on a Lot in the Property.

**Section 8.** "Meadows at High Grove" shall refer to the residential development of detached single family residences to be constructed on the Property.

**Section 9.** "Lot" shall mean any separately numbered plot of land, regardless of size, as shown on a recorded subdivision plat of the Property. Common Elements are not Lots. Declarant reserves the right to reconfigure from time to time, without the consent of the Owners or the Members of the Association, the boundaries of any Lot or Lots owned by the Declarant to create additional Lots, to eliminate existing Lots or to create additional Common Elements, provided such changes comply with the requirements of the appropriate governmental authority. If Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by Declarant, Declarant shall record a revised plat of the affected Lot or Lots; and upon the recording by Declarant of a revised plat, each Lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a "Lot" as defined in this Declaration, and each newly configured lot shown on the revised plat shall be a "Lot" as defined in this Declaration.

**Section 10.** "Member" shall mean and refer to every person or entity entitled to membership with voting rights in the Association.

**Section 11.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 12.** "Planned Community Act" shall mean the North Carolina Planned Community Act set out in Chapter 47F of the General Statutes of North Carolina. The Association has all powers set forth in § 47F-3-102.

**Section 13.** "Plat" shall initially mean and refer to that certain map of Meadows at High Grove, Phases 1 and 2, Lots 125 through 159 (a cluster subdivision) recorded in Book of Maps 2013, Page , Register of Deeds of Wake County, North Carolina, together with any subsequent plats of the Property as may be recorded by Declarant in its sole discretion.

**Section 14.** "Property" shall mean and refer to that certain real property shown on the Plat, which Property is herein made subject to this Declaration and such additions thereto as may hereafter be brought within the jurisdiction of the Association as may be recorded by Declarant in its sole discretion.

## ARTICLE II

### **PROPERTY RIGHTS; COMMON ELEMENTS**

**Section 1. Owners' Easements and Enjoyment.** Every Owner shall have a right and easement of enjoyment in and to the Common Elements, including a non-exclusive easement for ingress, egress and regress over the Common Elements to the extent necessary to provide access to his or her Lot, and for utilities serving that Lot, which shall be appurtenant to and shall pass with the title to every Lot, subject to the easements set out in Article VIII hereof and to the other provisions of this Declaration.

**Section 2. Delegation of Use.** Any Owner may delegate his or her rights of enjoyment of the Common Elements to the members of his or her family, lessees, contract purchasers who reside on such Lot, or guests.

**Section 3. Rules and Regulations.** The Declarant, during the Declarant's Development Period, and thereafter the Association acting through its Board, shall have the power to formulate, publish and enforce rules and regulations concerning the use and enjoyment of the Common Elements, including rules and regulations concerning parking and vehicular traffic flow. Such rules and regulations shall be maintained in a place reasonably convenient to the Members and available to them for inspection during normal business hours. The Association may impose reasonable monetary fines for the violation of established rules and regulations and for the violation of any of the covenants and conditions contained in this Declaration, which monetary fines shall be assessed and collected pursuant to the provisions of Articles IV and X hereof. Any such fines shall be subject to the terms of the Planned Community Act. Copies of such rules and regulations and the amendments thereto shall be furnished by the Association to

all Owners prior to the effective date thereof. All such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents.

**Section 4. Suspensions.** The Association shall have the power to suspend the voting rights of an Owner for any period during which any assessment against his or her Lot remains unpaid, and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations. The Association also may levy reasonable fines against an Owner for any infraction of its published rules and regulations, subject to the terms of the Planned Community Act, including notice and opportunity to be heard. No such suspension shall constitute a waiver or discharge of the Owner's obligation to pay assessments or abide by all published rules and regulations.

**Section 5. Mortgaging Common Elements.** The Association, acting through its Board, shall have the power to borrow money for the purpose of improving the Common Elements and facilities thereon and pursuant thereto to mortgage, pledge, grant a deed of trust, or hypothecate ("mortgage") the Common Elements, or any portion thereof, as security for money borrowed; provided, however, that any such action shall be taken only if persons entitled to cast at least eighty percent (80%) of the votes in the Association agree in writing to such action; provided, however, no mortgage, encumbrance or hypothecation or foreclosure of the lien thereby created shall cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances, and shall not interfere or obstruct utility service to, or ingress, egress, and regress to or from the Lots or the Common Elements; and provided further that for so long as Declarant shall own any portion of the Property, Declarant must also consent to such action.

In addition, any such mortgage given by the Association shall be subject and subordinate to any rights, interests, easements and privileges herein reserved or established for the benefit of Declarant, or any Lot or Lot Owner, or the holder of any mortgage irrespective of when executed or given by Declarant or any Lot Owner encumbering any Lot or any other part of the Property; and any provision in this Declaration and in any such mortgage given by the Association to the contrary notwithstanding, the exercise of any rights by the holder of the mortgage in the event of a default thereunder shall not terminate or cancel any rights, easements or privileges herein reserved or established for the benefit of Declarant, or any Lot Owner, or the holder of any mortgage irrespective of when executed given by Declarant or any Lot Owner encumbering any Lot or other Property in Meadows at High Grove.

**Section 6. Common Elements Dedication or Transfer.** The Association, pursuant to Section 47F-3-112 of the Planned Community Act, acting through its Board, shall have the right to dedicate or transfer fee title to all or any part of the Common Elements to any public agency, authority, or utility (including any entity authorized by Wake County or other local governmental authority to supply cable television / data services), or to transfer to any other party for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless persons entitled to cast at least eighty (80%) of the votes in the Association agree in writing to such action, and by the Declarant if the Declarant then owns any Lot within the Property. No such dedication or transfer shall interfere with or obstruct utility service to, or ingress, egress and regress to or from the Lots or any

remaining Common Elements, or deprive any Lot of its rights of support, or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances.

**Section 7. Encroachments.** The Association, acting through its Board, shall have the right to exchange portions of Common Elements with Declarant for substantially equal areas of Property for the purpose of eliminating unintentional encroachments of Dwellings or other improvements onto portions of the Common Elements or for the purposes of enhancing the utility of the Common Elements to be retained by the Association.

**Section 8. Maintenance.** The Association shall maintain the Common Elements and facilities and improvements thereon, as hereinafter provided in Section 1 of Article VI. Any portion of the Common Elements for which insurance is required to be maintained by the Association under the Planned Community Act which is damaged or destroyed shall be repaired or replaced promptly by the Association except as otherwise provided in Section 47F-3-113 of the Planned Community Act.

### ARTICLE III

#### **MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Members.** The Declarant, for so long as it shall be an Owner, and every person or entity who is an Owner of a fee simple or undivided fee simple interest in any Lot which is subject by covenants of record to assessments by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Ownership of such Lot shall be the sole qualification for membership; and no Owner shall have more than one membership, except as expressly provided hereinafter. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. The Association may promulgate reasonable rules relating to the proof of ownership of a Lot.

**Section 2. Classes of Members and Voting Rights.** The Association shall have two (2) classes of voting Members:

**Class A.** Class A Members shall be all Owners with the exception of the Declarant during the period Declarant is a Class B Member as defined below. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the required ownership interest. When more than one person or entity holds the required ownership interest in a Lot, all such persons or entities shall be Members. The vote for each such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Class B.** The Class B Member shall be the Declarant. The Class B Member shall be entitled to ten (10) votes for each Lot appearing on Declarant's site plans for the Property and any Additional Property, provided that the Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs first:

(a) When the total votes outstanding in the Class A membership equals or exceeds the total votes outstanding in the Class B membership; provided, however, that the Class B Membership shall be reinstated if after such conversion and before the time stated in subparagraph (b) below, additional lands are annexed to the Property pursuant to the provisions of Article X, Section 4 herein, containing a sufficient number of Lots to give the Class B Member a total number of votes in excess of the Class A Member; or

(b) When Declarant, at its option, so determines.

**Section 3. Right of Declarant to Select Members of the Board of the Association.**

Notwithstanding anything contained herein to the contrary, Declarant (or the assignee of the right granted in this Section) during the Declarant's Development Period shall have the right to designate and select all of the persons who shall serve as members of the Board of the Association. Whenever Declarant shall be entitled to designate and select any person or persons to serve on the Board of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation or Bylaws of the Association. Declarant shall have the right to remove any person or persons selected by it to act and serve on the Board and to replace such person or persons with another person or persons by it to act and serve in the place of any member of the Board so removed for the remainder of the unexpired term of office of any member of the Board removed. Any Member designated and selected by Declarant need not be an Owner. Any representative of Declarant serving on the Board of the Association shall not be required to disqualify himself or herself from any vote upon any contract or matter between Declarant and the Association where Declarant may have a pecuniary or other interest. Similarly, Declarant, as a member of the Association, shall not be required to disqualify itself upon any vote upon or entrance into any contract or matter between Declarant and the Association where Declarant may have a pecuniary or other interest. The method of electing, removing and replacing members of the Board not appointed by the Declarant shall be as provided in the Articles of Incorporation and/or Bylaws of the Association.

**Section 4. Right of Declarant to Amend.** In addition to the foregoing rights, Declarant may, at Declarant's option, amend and modify the Declaration and Bylaws, without obtaining the consent or approval of any other person or entity, if such amendment or modification is necessary to cause the Declaration and Bylaws to comply with the requirements of FHA, VA, the Federal National Mortgage Association or other similar agency, as more particularly described in Article X, Section 3 (d), below.

## ARTICLE IV

### COVENANT FOR ASSESSMENTS

**Section 1. Creation of the Lien and Personal Obligation for Assessments.** The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay:

- (a) to the Association:
  - (i) annual and other assessments and charges provided for herein, together with interest and late fees, costs and reasonable attorney's fees;
  - (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and
- (b) to the appropriate governmental taxing authority:
  - (i) a pro rata share of ad valorem taxes levied against the Common Elements; and
  - (ii) a pro rata share of assessments for public improvements to or for the benefit of the Common Elements if the Association shall default in the payment of either or both for a period of six (6) months.

All assessments and charges provided for herein, together with interest, any late fees, costs and reasonable attorney's fees, shall be a charge on the land and shall constitute a continuing lien upon the property against which each such assessment is made when a claim of lien is filed of record in the Office of the Clerk of Superior Court, Wake County, North Carolina. Each such assessment and charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them.

**Section 2. Purpose of Assessments.**

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Elements, including but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, and the payment of taxes assessed against the Common Elements; the maintenance of water lines, septic or sewer facilities in and upon the Common Elements (if not maintained by the utility provider); the maintenance of open spaces and streets which have not been accepted for dedication by a public authority, roadway medians and islands, drives and parking areas within the Common Elements; the procurement and maintenance of liability insurance in accordance with this Declaration or ByLaws; the maintenance of entranceways, landscaping and lighting of Common Elements, road medians and islands and entranceways; the cost of leasing, owning, operating, maintaining and repairing any street lights erected by the Association or the Declarant in the streets (whether public or private), or other Common Elements, or in any other easement provided therefor within the Property; the payment of assessments for public and private improvements made to or for the benefit of the Common



Elements; charges for garbage collection services furnished to the Lots; the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Elements; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and for such other needs as may arise.

(b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Elements and those other portions of the Property which the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for common expenses.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Property, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, and the Articles of Incorporation and the Bylaws of the Association. As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the Members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his or her Lot. When any Owner shall cease to be a Member of the Association by reason of his divestment of ownership of his or her Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Property.

**Section 3. Adoption of Budget and Fixing of Annual Assessments: Annual Assessment and Annual Meeting**

(a) At least thirty (30) days in advance of each annual assessment period, the Board shall establish an annual budget and fix the amount of the annual assessments in advance for the following year. Within thirty (30) days of the adoption of any proposed budget, the Board shall provide to all of the Owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The Board shall set a date for the annual meeting of the Owners to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting the Owners of a majority of the Lots reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board. The failure to receive such notice shall in no way affect the obligation of each Owner therefor or the lien therefor as provided herein.

(b) Declarant shall establish the Maximum Annual Assessment and initial annual assessment for the Lots. The Maximum Annual Assessment for the calendar year immediately following the year in which Declarant so establishes the Maximum Annual Assessment and initial annual assessment, and for each calendar year thereafter, may be increased by the Board without approval by the membership by an amount not to exceed fifteen percent (15%) of such amounts for the previous year. The Maximum Annual Assessment for the calendar year immediately following the year in which Declarant so establishes the Maximum Annual Assessment and initial annual assessment, and for each calendar year thereafter, may be increased without limit by a vote of the Members entitled to cast at least two-thirds (2/3) of the votes of each class of Members of the Association who are voting, in person or by proxy, at a meeting duly called for this purpose; provided, however, if Declarant then owns a Lot or any other portion of the Property, Declarant must also consent to such action.

(c) The Board may fix the annual assessment at an amount not in excess of the amount permitted in this Section 3 (subject to the provisions of Section 6 of this Article).

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized herein above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of the Members entitled to cast at least two-thirds (2/3) of the votes of each class of Members of the Association who are voting, in person or by proxy, at a meeting duly called for this purpose; provided, however, if Declarant then owns a Lot or any portion of the Property, Declarant must also consent to such action. All special assessments shall be fixed at a uniform rate for all Lots (subject to the provisions of Section 6 of this Article) and may be collected on a monthly, quarterly or semi-annual basis, as determined by the Members approving such assessments.

**Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article shall be sent to all Members not less than fifteen (15) days not more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast ten percent (10%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 6. Rate of Annual Assessment: Exclusions.** Both the annual and special assessments must be fixed at a uniform rate for all Lots; provided, however, no assessment shall be due with respect to any Lot owned by Declarant.

**Section 7. Date of Commencement of Annual Assessments: Due Dates.** The annual assessments provided for herein shall commence as to a particular Lot on the day of the conveyance by Declarant of that Lot to an Owner (other than Declarant). The first annual assessment shall be adjusted according to the number of months remaining in the calendar year.

The due dates shall be established by the Board. Annual assessments may be collected on a monthly, quarterly, semi-annual or annual basis, as determined by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

**Section 8. Working Capital Assessment.** In addition to the annual assessments authorized above, at the time of the closing of the first sale of each Lot by Declarant to an Owner (other than Declarant), such Owner shall pay to the Association an amount equal to the greater of two-twelfths (2/12ths) of the then current annual assessment established by the Association or Two Hundred and no/100 Dollars (\$200.00). Such funds shall be used by the Association to establish a Working Capital Fund, the purpose of which is to insure that the Association will have sufficient monies available to meet its initial operational needs. No such payments made into the Working Capital Fund shall be considered an advance or current payment of regular assessments. All monies paid into the Working Capital Fund shall be held and administered by the Association in accordance with the terms of the Declaration and the Bylaws.

**Section 9. Effect of Nonpayment of Assessments: Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate from time to time established by Association not to exceed eighteen percent (18%) per annum. In addition, the Association may charge a reasonable late fee, the amount of which shall be established from time to time by the Board of the Association, for assessments not paid within thirty (30) days after the due date. After notice and an opportunity to be heard, the Association may suspend privileges or services provided by the Association (except rights of access to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer, which suspension may continue without further hearing until the delinquency is cured. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosure of a mortgage or deed of trust on real estate under power of sale, and interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of any of the Common Elements or abandonment of his or her 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.

**Section 10. Effect of Default in Payment of Ad Valorem Taxes or Assessments for Public Improvements by Association.** Upon default by the Association in the payment to the governmental authority entitled thereto of any assessments for public improvements or ad valorem taxes levied against the Common Elements, which default shall continue for a period of six (6) months, each Owner of a Lot in the Property shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the Property. If such sum is not paid by the Owners within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his or her heirs, devisees, personal

representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lots.

**Section 11. Subordination of the Lien to Mortgagees: Foreclosure of First Mortgages.** The lien provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust, and subordinate to ad valorem property taxes. When the holder of a first mortgage or first deed of trust of record, or other purchaser of a Lot, obtains title to the Lot as a result of foreclosure of a first mortgage or first deed of trust or deed in lieu of foreclosure, such purchaser and its heirs, successors and assigns, shall not be liable for the assessments against such Lot which become due prior to the acquisition of title to such Lot by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all Owners, including such purchaser, its heirs, successors and assigns. Such sale or transfer of any Lot which is subject to any such first mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer; provided, however, no such sale or transfer shall relieve such Lot or the Owner thereof 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 first mortgage or first deed of trust.

**Section 12. Exempt Property.** All property dedicated to, and accepted by, a local governmental authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

## ARTICLE V

### ARCHITECTURAL CONTROL

**Section 1. Improvements.** No construction, improvements, alteration, repair, change in paint color, excavation, change in grade, exterior lights, fencing, planting, landscaping or other work (including, without limitation, yard ornaments, bird baths and feeders, flower boxes, mailboxes and similar items) which in any way alters the exterior of any Lot or the improvements located thereon from their natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant to an Owner shall be commenced, erected or maintained upon any Lot, and no building, shed, fence, wall, residence or other structure shall be commenced, erected, maintained, improved, altered or removed, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant during the Declarant's Development Period and thereafter by the Board or by an architectural committee composed of three (3) or more representatives if appointed by the Board (the "Architectural Control Committee"). Landscaping improvements or plantings of flowers, shrubs and trees by the Owner shall require approval by the Declarant during the Declarant's Development Period and thereafter by the Board or the Architectural Control Committee if appointed. Nothing herein contained shall prevent or interfere with the right of Declarant to improve and develop the

Property, including the Lots, as Declarant chooses. Accordingly, Declarant need not seek or obtain the approval of the Board or the Architectural Control Committee for improvements erected on the Property by or at the direction of Declarant.

**Section 2. Procedures.**

(a) Any person desiring to make any improvement, alteration or change described in Section 1 above shall submit the plans and specifications therefor, showing the nature, kind, shape, height, materials and location of the same, to the Declarant during the Declarant's Development Period and thereafter by the Board or the Architectural Control Committee if appointed, which shall evaluate such plans and specifications in light of the purposes of this Article.

(b) Upon approval of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specifications, as approved, shall be deposited in the permanent records of the Association and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specifications shall not be deemed a waiver of the right of the Declarant, Board, or Architectural Control Committee, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved. For any request made under this Article, the Association may require that the Owner requesting such change be liable for any cost of maintaining, repairing and insuring the approved alteration. If such condition is imposed, the Owner shall evidence consent thereto by a written document in recordable form satisfactory to the Association. Thereafter, the Owner, and any subsequent Owner of the Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, are deemed to covenant and agree that the cost of maintaining, repairing and insuring such alteration shall be a part of the annual assessment or charge set forth herein, and subject to the lien rights described herein.

(c) Neither Declarant, nor any other member of the Board or Architectural Control Committee, shall be responsible or liable in any way for any defects in any plans or specifications approved by them, nor for any structural defects in any work done according to such plans and specifications. Further, neither Declarant, nor any member of the Board or Architectural Control Committee, shall be liable in damages 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 provided for in this Declaration. Every person who submits plans or specifications for approval agrees, by submission of such plans and specifications, and every owner of any Lot agrees, that he or she will not bring any action or suit against Declarant, or any member of the Association's Board or Architectural Control Committee, to recover any such damage.

## ARTICLE VI

### MAINTENANCE

**Section 1. Maintenance to be Performed by the Association.** The Association shall maintain the Common Elements in an attractive and well-kept condition, consistent with all requirements of Wake County and any other local governmental authority. In addition, the Association (a) shall maintain, repair and replace all water lines, septic or sewer facilities and other utilities located in the Common Elements which are not maintained by the applicable public utility (or other utility provider/servicer); and (b) shall maintain all entrances and signage located at the entrances. In the event that the need for any maintenance, repair or replacement required hereunder to be performed by the Association is caused through the willful or negligent act of an Owner, his family, guests or invitees, the cost of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such Owner's Lot is subject.

The Owner of any Lot may plant flowers, shrubbery or trees on his or her Lot only with the prior written consent of the Association, as provided in Section 1 of Article V. No such plantings by an Owner shall reduce the assessment payable by the Owner to the Association.

**Section 2. Maintenance to be Performed by the Owners.** Each Owner shall be responsible for the repair, maintenance and upkeep of the exterior of the Dwelling on such Lot, together with all improvements located on the Lot, including, but not limited to, any and all vegetation, driveways, sidewalks (excluding public sidewalks), walls, glass surfaces, window and door screens, patios, decks, basement and crawl space areas, and any other exterior improvements approved pursuant to Article V. The external appearance of all such repairs, maintenance and upkeep shall be subject to the provisions of this Declaration. Each Owner shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of the interior of the Dwelling, of all glass surfaces, window or door screens, any doors and storm doors (any such installation being subject to Article V hereof), air conditioning and heating equipment of the Dwelling.

The Owner shall also maintain, repair and replace, unless the obligation of the Association under Section 1 above, all utility lines, septic systems, fixtures and/or their connections on the Owner's Lot which are required to provide water, septic/sewer, power, gas, telephone, cable television and any other utilities to his or her Lot which are not publicly maintained.

In the event that the Owner neglects or fails to provide such maintenance in a manner consistent with other Lots and Dwellings within the Property, the Association may provide such maintenance, and all cost incurred by the Association in providing such maintenance, plus a service charge of twenty percent (20%) of such costs, shall be added to the annual assessment for such Lot and subject to the lien rights described in Article IV; provided, however, that the Association shall first give written notice to the Owner of the specific items of exterior maintenance or repair the Association intends to perform and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance himself or herself. The determination as to whether an Owner has neglected or failed to maintain

his or her Lot and/or Dwelling in a manner consistent with other Lots and Dwellings within the Property shall be made by the Board of the Association, in its sole discretion.

**Section 3. Easement to Perform Maintenance.** In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right and easement to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

## ARTICLE VII

### USE RESTRICTIONS

**Section 1. Land Use.** No Lot shall be used except for single-family residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one detached single-family residential Dwelling. Notwithstanding the foregoing, Declarant shall have the right to maintain (i) one or more sales offices and one or more model homes located on Lots owned or leased by Declarant for the promotion and sales of Lots and Dwellings within the Property, and (ii) one or more temporary trailers and other temporary structures on any Lot owned by the Declarant or on the Common Elements to facilitate the construction of improvements within the Property.

**Section 2. Dwelling Specifications and Materials.** No Dwelling shall be erected or allowed to remain on a Lot if the heated area of the main structure, exclusive of open porches, decks and garages, shall be less than two thousand one hundred (2,100) square feet for one-story Dwellings and two thousand five hundred (2,500) square feet for two-story Dwellings. Siding for all Dwellings shall be fiber cement, brick, stone or a combination thereof. All roofs shall be shingled.

Both the Declarant and the Board of the Association shall have the right to waive minor violations of, and allow minor variances from, the restrictions contained in this Section 2, where the same resulted unintentionally or without gross carelessness on the part of any Owner (including, without limitation, Declarant) and is not materially harmful to the Property. Any such waiver granted shall be in writing, and any matter so waived shall no longer be deemed a violation of these covenants.

**Section 3. Nuisance.** No noxious or offensive activity shall be conducted upon any Lot or the Common Elements nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. In addition, no activity deemed noxious or offensive by the Board shall be carried on upon any Lot or within the Common Elements nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood as determined by said Board. The Board may establish reasonable rules and regulations for enforcing the provisions of this Section.

**Section 4. Signs.** Except for signs erected by Declarant or the Association within the Common Elements and signs erected by Declarant on Lots owned or leased by Declarant advertising the sale, lease or other promotion of Lots within the Property, no sign shall be placed or allowed to remain on any Lot except for One (1) "For Sale" sign of such size and type as the

Board may approve. No sign deemed by Declarant or the Association to be a nuisance or a detriment to the Property shall be permitted or allowed to remain on any Lot within the Property. For political signs, see Section 9 below.

**Section 5. Outside Antennas and Satellite Dishes.** No outside antennas or satellite dishes and no free standing transmission or receiving towers shall be erected on any Lot or Common Elements within the Property without the prior written permission of the Board or the Architectural Control Committee, subject to federal regulations governing any such antennas and satellite dishes.

**Section 6. Animals.** No animals or livestock of any kind shall be raised or kept on any Lot, except that chickens, dogs, cats or other household pets may be kept on Lots provided that said animals are kept in compliance with applicable local ordinances and are not kept for commercial purposes and further provided that they are kept and maintained in compliance with (i) all laws and ordinances of Wake County and other local governmental authorities, or the State of North Carolina relating thereto, and (ii) such rules and regulations pertaining thereto as the Board may adopt from time to time. Each Owner owning or having possession, charge, care, custody or control of any dog or chicken shall keep such animal exclusively upon his or her Lot; provided, however, that dogs may be temporarily off the Lot if under the control of a competent person and restrained by a leash or other means of adequate physical control. Each Owner will be responsible for cleaning up any and all waste deposited by his or her animal upon any Lot or Common Elements.

**Section 7. Garbage and Refuse Disposal.** No Lot shall be used or maintained as a dumping ground for rubbish; and all trash, garbage or other waste shall be stored in sanitary containers in accordance with the rules and regulations of any health or public safety authority having jurisdiction over the Property. The sanitary container only shall be placed outside at the earliest the evening before garbage pickup day and shall be promptly removed from the street and placed at the side or rear of the Dwelling after garbage has been picked up. No trash, garbage or other waste may be placed within the Common Elements, except in containers approved by the Board.

**Section 8. Parking and Garages.** The Association, acting through its Board, shall have the power to formulate, publish and enforce rules and regulations concerning parking on the Common Elements or other parts of the Property, as provided in Section 3 of this Article II, and may have towed at the Owner's expense any vehicle which is parked in an area where parking is not then permitted.

All Dwellings shall have, at least, a double-car garage and paved driveway. Any boats, boat trailers, motorcycles, mopeds, campers or recreational vehicles must be parked solely in garages. No garage may be used for residential or recreational purposes, and each Owner shall keep the interior of his or her garage in a neat and orderly condition and shall keep garage doors closed except when entering or leaving the garage.

**Section 9. Flags and Political Signs.** Section 47F-3-121 of the Planned Community Act applies to Meadows at High Grove. The Association shall enact rules and regulations governing flags and political signs consistent with Section 47F-3-121.



**Section 10. Irrigation.** Section 47F-3-122 of the Planned Community Act applies to Meadows at High Grove. The Association shall enact rules and regulations governing irrigation of landscaping consistent with Section 47F-3-122. Any requirement to irrigate landscaping shall be suspended during periods of mandatory water conservation measures as provided in Section 47F-3-122.

**Section 11. Septic Systems.** Each Lot within Meadows at High Grove will have sewer and septic services provided through the use of septic systems and lines located on such Lot. Each Owner of a Lot shall be responsible for the maintenance and upkeep of all portions of the sewer and septic system located on such Owner's Lot, in addition to landscaping, mowing and otherwise maintaining the surface above such system. If any Owner, after notice and an opportunity to be heard, fails to maintain, repair and replace such sewer and septic facilities and appurtenances as required herein, the Association, at the expense of such Owner, may maintain, repair or replace such sewer and septic appurtenances at the sole cost and expense of such Owner and such costs shall be a part of the annual assessment or charge for such Lot as set forth herein, and be subject to the lien rights described herein. Declarant and the Association shall have easements in, on over and through each Lot for the purposes specified in this Section 11, which easements may be assigned in whole or in part.

**Section 12. Trees.** No trees that are more than four (4) inches in diameter, twelve and one-half (12 1/2) inches in circumference at a point four and one-half (4 1/2) feet above the ground shall be removed without the prior written consent of the Architectural Control Committee except (a) dead or diseased trees, (b) trees that are located within ten (10) feet of a drainage area, septic field, sidewalk, residence or driveway, (c) trees removed by the Declarant, or (d) trees removed during the construction of the original dwelling on a Lot. No trees shall be planted in the community without the written prior consent of the Architectural Control Committee.

## ARTICLE VIII

### EASEMENTS

**Section 1. Utility and Drainage Easements; Services to Lots.** An easement is hereby established for the benefit of Wake County and other local governmental authorities (and Declarant, the Association and any other person or firm providing services to the Property under agreement with or at the direction of the Association) over all Lots and Common Elements as may be reasonably necessary for the setting, removal and reading of water meters, the maintenance and replacement of water, septic, sewer and drainage facilities, the fighting of fires, the collection of garbage, and the delivery of mail. The Association and the Declarant shall have the power and the authority to grant and establish upon, over and across the Common Elements such additional easements as are necessary or desirable for the providing of services or utilities to the Common Elements or Lots.

Declarant or the Association may contract with any public or private entity, or any municipality or governmental body, for utility services (including streetlights) for Meadows at High Grove, including the Lots, which contract may require the installation of pipes, lines, cables

and similar equipment, and may also require an initial payment and/or continuing monthly payments to such entity by the Owner of each Lot.

**Section 2. Sign and Landscaping Easements.** The Association shall have sign and landscaping easements in the area shown on the Plat (if any) and, to the extent permitted by Wake County and any other applicable local governmental authority, in other common areas adjacent to the intersection of any interior roads of Meadows at High Grove and Eden Grove Road or Hilltop Needmore Road for such entry monument or monuments as Declarant, in its sole discretion, chooses to construct. The Association shall maintain all subdivision signs and landscaping, irrigation and lighting surrounding same now or hereafter erected within the Common Elements. The costs of all maintenance, repair and replacement of such signs, landscaping and lighting shall be part of the common expenses of the Association, payable by the Owners as set out in Article IV hereof. Further, while Declarant owns any Lot, Declarant shall have (i) the right to erect within the Common Elements additional subdivision signs and landscaping and lighting surrounding the same to be maintained by the Association as herein provided and (ii) the right to erect within the Common Elements signs advertising the sale and promotion of Lots.

**Section 3. Easements Reserved By Declarant.** Declarant hereby reserves such easements on, across and over the Lots and Common Elements as shall be reasonably necessary for (i) the exercise by Declarant of any right herein reserved, (ii) for the purpose of construction of improvements within the Property, including the temporary storage of construction materials on the Common Elements.

**Section 4. Additional Drainage Easements.** In order to implement effective and adequate erosion control, the Association shall have the right to enter upon any portion of the Property before and after improvements have been constructed thereon for the purpose of performing any grading or constructing and maintaining erosion prevention devices; provided, however, no such activities shall interfere with any permanent improvements constructed on the Property.

**Section 5. Encroachments.** In the event that any improvements on a Lot shall encroach upon any Common Elements or upon any other Lot as a result of the initial improvements constructed by Declarant or for any reason not caused by the purposeful or negligent act of the Owner or agents of such Owner, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Common Elements or other Lot for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Elements shall encroach upon any Lot, then as easement shall exist for the continuance of such encroachment of the Common Elements into any such Lot for so long as such encroachment shall naturally exist.

## ARTICLE IX

### **RIGHTS RESERVED UNTO INSTITUTIONAL MORTGAGEES**

**Section 1. Entities Constituting Institutional Mortgagees.** "Institutional Mortgagee" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies or other firms or entities customarily affording loans secured

by first liens on residences, and eligible insurers and governmental guarantors. As used herein, "Mortgagee" shall also mean a beneficiary under a Deed of Trust. As used herein, "Mortgage" shall also mean a Deed of Trust.

**Section 2. General Rights of Institutional Mortgagees.** The following provisions are intended for the benefit of each "Institutional First Mortgagee" (defined for purposes herein to mean any federally or state chartered bank, insurance company, a FHLMC, FNMA, GNMA, HUD, VA or FHA approved mortgage lending institution, a recognized pension fund investing in mortgages, and any federally or state chartered savings and loan association or savings bank, or any other institutional lender holding a First Mortgage) holding or insuring first lien Mortgages on Lots which have provided to the Association written requests, stating their names and addresses and the street addresses of the Lots to which their Mortgages relate, as more specifically provided hereinafter. An Institutional First Mortgagee shall not cease to be an Institutional First Mortgagee even if the First Mortgage is partially subordinated to another mortgage encumbering the Property. To the extent that any other provisions of this Declaration conflict with the following provisions, the following provisions shall control:

(a) Upon request in writing to the Association identifying the name and address of the Institutional First Mortgagee and the number or address of the Lot on which it has the First Mortgage, the Association shall undertake to furnish to each such Institutional First Mortgagee timely written notice of (a) any condemnation or casualty loss that affects either a material portion of the Property or the Lot securing its mortgage, (b) any 60-day delinquency in the payment of Assessments or charges owed by the Owner of the Lot on which it holds the Mortgage, (c) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, and (d) any proposed action that requires the consent of a specified percentage of the Institutional First Mortgagees.

(b) Any Institutional First Mortgagee who comes into possession of a Lot pursuant to the remedies provided in the First Mortgage, through either deed-in-lieu or foreclosure, shall, to the extent permitted by law, take such property free of any claims for unpaid Assessments and charges in favor of the Association against the mortgaged Lot which became due prior to (i) the date of the transfer of title or (ii) the date on which the holder comes into possession of the Lot, whichever occurs first; provided, however, that this provision shall not apply to unpaid assessments and charges for which the Association has recorded a Notice of Lien in the public records prior to the recording of the applicable First Mortgage. In no manner shall the foregoing ability to avoid claims for unpaid Assessments and charges apply to the holder of a mortgage that is not an Institutional First Mortgagee.

(c) Upon request in writing, each Institutional First Mortgagee shall have the right:

(1) to examine current copies of this Declaration, the Articles, the Bylaws, Rules and Regulations and the books and records of the Association during normal business hours;

(2) to receive, by payment of a reasonable charge and within a reasonable time after such request, any annual audited or unaudited financial statements which are prepared and distributed by the Association to the Owners at the end of each of its respective fiscal years;

provided, however, that in the event an audited financial statement is not available, any Institutional First Mortgagee shall be entitled to have such an audited statement prepared at its expense.

(3) to receive written notices of all meetings of the Association and to designate a representative to attend all such meetings.

(4) to receive written notice of any decision by the Owners to make a material amendment to this Declaration, the Bylaws or the Articles; or

(5) to receive written notice of any proposed action which would require the consent of a specified percentage of Institutional First Mortgagees.

No provision of this Declaration or the Articles or any similar instrument pertaining to any portion of the Property shall be deemed to give an Owner or any other party priority over the rights of the Institutional First Mortgagees pursuant to their First Mortgages in the case of distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of the Lots and/or the Common Elements, or any portion thereof or interest therein. In such event, the Institutional First Mortgagees of the Lots affected shall be entitled, upon specific written request, to timely written notice of any such loss.

(d) Upon specific written request to the Association identifying the name and address of the Institutional First Mortgagee and the number and address of the Lot on which it has the First Mortgage, each Institutional First Mortgagee shall be furnished notice in writing by the Association of any damage to or destruction or taking of the Common Elements if such damage or destruction or taking exceeds \$10,000.

(e) If any Lot (or portion thereof) or the Common Elements (or any portion thereof) is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the Institutional First Mortgagee of said Lot or the Common Elements will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition and no provisions of any document will entitle the Owner of such Lot or the Common Elements or other party to priority over such Institutional First Mortgagee with respect to the distribution to such Lot or the Common Elements of the proceeds of any award or settlement.

**Section 3. Taxes and Assessments.** Declarant and Institutional First Mortgagees may, jointly or severally, pay taxes and assessments or other charges which are in default and which may or have become a charge against the Common Elements, and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and Declarant and Institutional First Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

**Section 4. Notice to the Association.** Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such Owner's Lot.

**Section 5. Failure of Mortgagee to Respond.** Any Institutional First Mortgagee who received a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Institutional First Mortgagee within 30 days of the date of the Association's request, based upon the date indicated on a postal return receipt or other certified evidence showing delivery.

**Section 6. Requirements of Institutional Mortgagee.** Whenever any Institutional Mortgagee desires to avail itself of the provisions of this Article, it shall furnish written notice thereof to the Association by CERTIFIED MAIL at the address shown in the Articles of Incorporation identifying the Lot or Lots upon which such Institutional Mortgagee holds any first lien or identifying any Lot or Lots owned by such Institutional Mortgagee, and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Mortgagee.

## ARTICLE X

### GENERAL PROVISIONS

**Section 1. Enforcement.** The Owner of each Lot shall be governed by and shall comply with the provisions of this Declaration, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto, as any of the same are now constituted or as they may be amended from time to time. A default by any Owner shall entitle the Association or the Owner of any of the other Lots to the following relief:

(a) The Association or any Owner at any time, or the Declarant during the Declarant's Development Period, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto. Failure to comply with any of the terms of this Declaration or other restrictions and regulations contained in the Bylaws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief, including without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Property to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

(b) The Association, after notice to the Owner and a reasonable opportunity to be heard, shall have the right to assess reasonable fines against an Owner for violations of this Declaration, the Bylaws of the Association or the Association's published rules and regulations by such Owner, or such Owner's family, guests, invitees and lessees in an amount not to exceed \$100.00 for each violation, and without further hearing, for each day after the decision that the violation occurs. Such fines shall be deemed to be assessments as set forth in Article IV of the Declaration; and if not paid within thirty (30) days after notice and demand therefor, the Association shall be entitled to the remedies set forth in the Declaration for the enforcement and collection of delinquent assessments. The procedure for imposition of a fine and suspension of privileges or services shall be in compliance with Section 47F-3-107.1 of the Planned Community Act.

(c) The Association, after notice to the Owner and a reasonable opportunity to be heard, shall have the right to suspend privileges or services provided by the Association (except rights of access to Lots) for reasonable periods of violations of this Declaration or the Bylaws, Articles or rules and regulations of the Association. If it is decided that a suspension of privileges or services provided by the Association should be imposed. The suspension may be continued without further hearing until the violation is cured. Any suspension shall be subject to the terms of the Planned Community Act.

(d) If an Owner is legally responsible for damage inflicted on any Common Elements, the Association may direct such Owner to repair such damage or the Association may itself cause the repairs to be made and recover damages from the responsible Owner. If damage is inflicted on any Lot by an agent of the Association in the scope of the agent's activities as such agent, the Association is liable to repair such damage or to reimburse the Owner for the cost of repairing such damages. The Association shall also be liable for any losses to the Owner. When any such claim for damages against an Owner or the Association is less than or equal to the jurisdictional amount established for small claims by North Carolina General Statutes, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the Board to determine if an Owner is responsible for damages to any Common Elements or the Association is responsible for damages to any Lot. If the Board fails to appoint an adjudicatory panel to hear such matters, such hearings shall be held before the Board. Such panel shall accord to the party charged with causing damages notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. This panel may assess liability for each damage incident against each Owner charged or against the Association not in excess of the jurisdictional amount established for small claims by North Carolina General Statutes. When such claim exceeds the jurisdictional amount established for small claims by North Carolina General Statutes 7A-210, liability of any Owner charged or the Association shall be determined as otherwise provided by law. Liabilities of Owners determined by adjudicatory hearing or as otherwise provided by law shall be assessments secured by lien under Section 47F-3-116 of the Planned Community Act. Liabilities of the Association determined by adjudicatory hearing or as otherwise provided by law may be offset by the Owner against sums owing to the Association and if so offset, shall reduce the amount of any lien of the Association against the Lot at issue.

(e) In any proceeding arising because of an alleged default by an Owner, the Association, if successful, shall be entitled to recover the costs of the proceedings and such reasonable attorneys' fees as may be determined by the Court.

(f) The failure of the Association or any Owner or the Declarant during the Declarant's Development Period to enforce any right, provision, covenant or condition which may be granted by this Declaration or the other above mentioned documents shall not constitute a waiver of the right of the Association or of the Owner to enforce such right, provision, covenant or condition in the future.

(g) All rights, remedies and privileges granted to the Association or the Owners, pursuant to any terms, provisions, covenants or conditions of the Declaration or other above mentioned documents, shall be deemed to be cumulative and the exercise of anyone or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

**Section 2.** **Severability.** Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 3. Term and Amendment.**

(a) The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods often (10) years unless terminated as hereafter provided.

(b) In addition to Amendments by the Declarant as provided in (c) below, the Declaration may be amended only by affirmative vote or written agreement signed by Owners entitled to cast at least sixty-seven percent (67%) of the votes of the Association and may be terminated with the consent of the Owners entitled to cast at least eighty percent (80%) of the votes of the Association; provided, however, this Declaration may not be amended or terminated without Declarant's consent if Declarant then owns a Lot or any other portion of the Property, and no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements on or affect any lien for the payment thereof established herein. For the purpose of this Section, additions to existing property by Declarant pursuant to Section 4 of this Article shall not constitute an "amendment."

(c) Any amendment must be executed on behalf of the Association by a duly authorized officers and be properly recorded in the Office of the Register of Deeds, Wake County, North Carolina.

(d) In addition to Amendments under (b) above, this Declaration may be amended unilaterally at any time and from time to time by Declarant or its successor or assigns as follows: (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (iii) if such amendment is required by an institutional or governmental Mortgagee or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such Mortgagee or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration; or (iv) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing.

**Section 4. Annexation of Additional Property.**

(a) Except as provided in (b) of this Section 4, additional lands may be added and annexed to the Property only with the consent of two-thirds (2/3) of each class of Members who are voting in person or by proxy at a meeting duly called where a quorum is present; provided, however, if the Declarant then owns any Lot, Declarant also must consent to such action. A meeting shall be duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days in advance of the meeting.



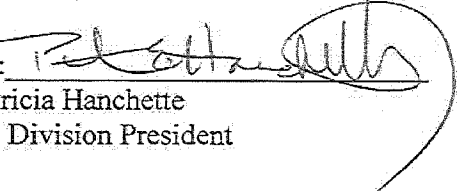
(b) If, within fifteen (15) years of the date of incorporation of the Association, the Declarant should desire to develop additional lands in the vicinity of the Property (the "Additional Property"), such Additional Property may be added to and annexed to the Property by Declarant without the consent of the Members. For the purposes hereof, the "Additional Property" shall include any land adjoining the Property and any land within 8,000 feet of any boundary line of the Property.

**Section 5. Amplification.** The provisions of this Declaration are amplified by the Articles of Incorporation and Bylaws of the Association; but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws of the Association on the other be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control over anything contained in the Articles of Incorporation or Bylaws of the Association.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed in its name the day and year first above written.

**DECLARANT:**

LENNAR CAROLINAS, LLC,  
A Delaware limited liability company

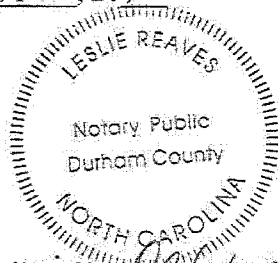
By:   
Patricia Hanchette  
Its: Division President

**STATE OF NORTH CAROLINA  
COUNTY OF WAKE**

I certify that the following person personally appeared before me this day, acknowledging to me that s/he signed the foregoing document: Patricia Hanchette.

Date: May 10, 2013

(Official Seal)



  
\_\_\_\_\_  
Official Signature of Notary

Leslie Reaves, Notary Public  
Printed or typed name

My commission expires: October 5 2013

**EXHIBIT A**

**Legal Description of 35 Lots High Grove III, Phases 1 and 2  
and  
Permanent Open Space Conservation of Natural Area**

All of those certain tracts of land lying and being in Middle Township, Wake County, North Carolina being more particularly described as follows:

All of those certain thirty-five (35) Lots depicted as Lots 125 thru and including Lot 159, each as shown on that certain plat entitled "High Grove III, Phases 1 and 2, Lots 125 thru 159 (A Cluster Subdivision)," Sheets 1 and 2 of 2, dated August 14, 2012, prepared by Stewart-Proctor, PLLC and bearing the seal of Herbert H. Proctor PLS L-3821 as of November 15, 2012 recorded in Book of Maps 2013, Pages 196 and 197, Wake County Registry, and revised on February 26, 2013 as recorded in Book of Maps 2013, Pages 242 and 243, Wake County Registry.

BEING all of that Permanent Open Space Conservation of Natural Area containing 2.66 acres adjacent to the eastern margin of the right of way of Eden Grove Road and the western boundary lines of Lots 125-130, all as shown on that certain plat entitled "High Grove III, Phases 1 and 2, Lots 125 thru 159 (A Cluster Subdivision)," Sheet 1 of 2, dated August 14, 2012, prepared by Stewart-Proctor, PLLC and bearing the seal of Herbert H. Proctor PLS L-3821 as of November 15, 2012 recorded in Book of Maps 2013, Pages 196 and 197, Wake County Registry, and revised on February 26, 2013 as recorded in Book of Maps 2013, Pages 242 and 243, Wake County Registry.

BEING all of that Permanent Open Space Conservation of Natural Area containing 14.22 acres as shown on that certain plat entitled "High Grove III, Phases 1 and 2, Lots 125 thru 159 (A Cluster Subdivision)," Sheets 1 and 2 of 2, dated August 14, 2012, prepared by Stewart-Proctor, PLLC and bearing the seal of Herbert H. Proctor PLS L-3821 as of November 15, 2012 recorded in Book of Maps 2013, Pages 196 and 197, Wake County Registry, and revised on February 26, 2013 as recorded in Book of Maps 2013, Pages 242 and 243, Wake County Registry.



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