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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

FOR

*The Legacy*  
AT JORDAN LAKE

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

**FOR**

**THE LEGACY AT JORDAN LAKE**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made as of the date on the signature page hereof by The Legacy at Jordan Lake, LLC a North Carolina limited liability company (the "Declarant").

Declarant is the owner of the real property described in Exhibit "A," which is attached and incorporated by reference. This Declaration imposes upon the Properties (as defined in Article 1 below) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance of such plan, this Declaration provides for the creation of The Legacy at Jordan Lake Homeowners' Association, Inc. to own, operate and maintain Common Areas and to administer and enforce the provisions of this Declaration, the By-Laws, and the Design Guidelines (as these terms are defined below).

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article 1 below) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Properties.

**Article 1.**

**DEFINITIONS**

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 "Additional Property": All of that certain real property which is more particularly described on Exhibit "B", which is attached and incorporated herein by this reference, and which real property is subject to annexation to the terms of this Declaration in accordance with Article 7.

1.2 "Adjacent Properties": Any residential, nonresidential, or recreational areas, including without limitation the Community Institutional Area, single family residential developments, assisted living facilities, retail, office, commercial, or institutional areas and Private Amenities, which are located adjacent to, in the vicinity of, or within the Properties; which are owned and operated, in whole or in part, by Persons other than the Association; which are not subject to this Declaration; and which are neither Units nor Common Area as defined in this Declaration.

1.3 "ARB": The Architectural Review Board, as described in Section 9.2.

1.4 "Area of Common Responsibility": The Common Area, together with those areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenant, contract, or agreement. The Area of Common Responsibility shall include any real property and improvements which are designated as areas to be maintained by the Association on a recorded subdivision plat for any portion of the Properties.

1.5 "Articles of Incorporation" or "Articles": The Articles of Incorporation of The Legacy at Jordan Lake Homeowners' Association, Inc., as filed with the Secretary of State of the State of North Carolina.

1.6 "Association": The Legacy at Jordan Lake Homeowners' Association, Inc., a North Carolina nonprofit corporation, its successors or assigns.

1.7 "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under North Carolina corporate law.

1.8 "Builder": Any Person who purchases one or more Units for the purpose of constructing improvements for later sale to consumers or purchases one or more parcels of land within the Properties for further subdivision, development, and/or resale in the ordinary course of such Person's business. Any Person occupying or leasing a Unit for residential purposes shall cease to be considered a Builder with respect to such Unit immediately upon occupancy of the Unit for residential purposes, notwithstanding that such Person originally purchased the Unit for the purpose of constructing improvements for later sale to consumers.

1.9 "By-Laws": The By-Laws of The Legacy at Jordan Lake Homeowners' Association, Inc., attached as Exhibit "C", as they may be amended.

1.10 "Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint a Majority of the members of the Board of Directors as provided in Section 3.2.

1.11 "Common Area": All real and personal property, including, without limitation, the private roads, gate houses, gates and other controlled access facilities within the Properties, any swimming pool and clubhouse facilities and all easements and licenses, which the Association owns, leases or holds possessory or use rights in for the common use and enjoyment of the Owners. The term also shall include the Exclusive Common Area, as defined below.

1.12 "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.

1.13 "Community Institutional Area": That certain 10.792 acre portion of the Adjacent Properties located along Big Woods Road, as more particularly shown on the Master Plan and the Plats.

1.14 "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard shall initially be established by the Declarant and may be more specifically determined by the Board of Directors and the ARB.

1.15 "Cost Sharing Agreement": Any agreement, contract or covenant between the Association and an owner or operator of property adjacent to, in the vicinity of, or within the Properties, including any Private Amenity, for the allocation of expenses that benefit both the Association and the owner or operator of such property.

1.16 "Declarant": The Legacy at Jordan Lake, LLC, a North Carolina limited liability company, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided however, there shall be only one Person entitled to exercise the rights and powers of the "Declarant" hereunder at any one time.

1.17 "Days": Calendar Days; provided however, if the time period by which any action required hereunder must be performed expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regular business day.

1.18 "Design Guidelines": The design and construction guidelines and application and review procedures applicable to the Properties promulgated and administered pursuant to Article 9.

1.19 "Development Period": The period of time during which the Declarant owns any property which is subject to this Declaration, any Additional Property, or any Private Amenity, or has the unilateral right to subject Additional Property to this Declaration pursuant to Section 7.1.

1.20 "Exclusive Common Area": A portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all, Neighborhoods or Units, as more particularly described in Article 2.

1.21 "General Assessment": Assessments levied on all Units subject to assessment under Article 8 to fund Common Expenses for the general benefit of all Units, as more particularly described in Sections 8.1 and 8.3.

1.22 "Governing Documents": The Declaration, By-Laws, Articles of Incorporation, all Supplemental Declarations, the Design Guidelines and rules of the Association, or any of the above, as each may be amended from time to time.

1.23 "Grinder Pump Station": The wastewater grinder pump, tank and controls to be located on each Owner's property near the dwelling located on the Unit into which the Owner's wastewater enters and is then pumped into the rest of the Private Sewer System.

1.24 "Majority": Those votes, Owners, Members, or other group, as the context may indicate, totaling more than 50% of the total eligible number.

1.25 "Master Plan": The land use plan or development plan for "The Legacy at Jordan Lake," prepared by the land planning firm CE Group, Inc., 1051 Pemberton Mill Road, Suite 201, Apex, NC 27502, as such plan may be amended from time to time, which includes the property described on Exhibit "A" (and all or a portion of the property described on Exhibit "B" that Declarant may from time to time anticipate subjecting to this Declaration). Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property described on Exhibit "B" from the Master Plan bar its later annexation in accordance with Article 7.

1.26 "Meadows": Those portions of the Common Area identified as such on any Plats, as hereinafter defined.

1.27 "Member": A Person entitled and subject to membership in the Association pursuant to Section 3.2.

1.28 "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit.

1.29 "Mortgagee": A beneficiary or holder of a Mortgage.

1.30 "Neighborhood": A separately developed area within the Properties, whether or not governed by a Neighborhood Association (as defined below), in which the Owners of Units may have common interests other than those common to all Members of the Association. For example, and by way of illustration and not limitation, each single-family attached or detached housing development may constitute a separate Neighborhood, or a Neighborhood may be comprised of more than one housing type with other features in common.

Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Committee, if any, (established in accordance with the By-Laws) or Neighborhood Association if any, (as defined below) having concurrent jurisdiction over the property within the Neighborhood. Neighborhood boundaries may be established and modified as provided in Section 3.3.

1.31 "Neighborhood Assessments": Assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Sections 8.1 and 8.4.

1.32 "Neighborhood Association": Any owners association having concurrent jurisdiction with the Association over any Neighborhood.

1.33 "Neighborhood Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of Owners of Units within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements, as the Board may specifically authorize from time to time and as may be authorized herein or in Supplemental Declarations applicable to such Neighborhood(s).

1.34 "Owner": One or more Persons who hold the record title to any Unit, including the Declarant and any Builder but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded land sales contract and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner. If a Unit is owned by more than one Person, all such Persons shall be jointly and severally obligated to perform the responsibilities of such Owner.

1.35 "Person": A natural person, a corporation, a partnership, a limited liability company, a fiduciary acting on behalf of another person or any other legal entity.

1.36 "Plats": Any and all recorded maps and plats with respect to the Properties or the Additional Properties, including, without limitation, the subdivision plat for Phase I of the Properties recorded at Plat Slide \_\_\_\_\_, Chatham County Registry.

1.37 "Private Amenity": Certain real property and any improvements and facilities thereon located, now or in the future, adjacent to, in the vicinity of, or within the Properties, designated, now or in the future, by the Declarant and which are or will be owned (or ground leased) and operated, in whole or in part, by Persons other than the Association for recreational or other purpose. The use of the term "Private Amenity" shall not be construed to imply or require a private club. Private Amenities may be operated on a daily fee, use fee, public, or private basis or otherwise, and may include, without limitation, any short-iron golf facilities, tennis facilities, spa and fitness facilities, separate clubhouse and club facilities and other sports facilities, so located and all related and supporting facilities and improvements.

1.38 "Private Sewer System": Any sanitary sewer system owned and/or operated by a licensed utility company regulated by the State of North Carolina Utilities Commission providing sewer service to the Members located within the Properties, including sanitary sewer gravity based and/or pressure based collector lines and pressure pumping mechanisms installed by Declarant and sanitary sewer service connections and pressure lines to or within a Unit and any related components or equipment required for the collection, transmission, treatment, processing, or spraying of waste effluent, including the wastewater treatment plant, Grinder Pumps Stations, motors, casings, electrical lights and switches, whether installed by a Builder or Owner.

1.39 "Properties": The real property described on Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article 7.

1.40 "Public Records": The Office of the Register of Deeds and/or the Clerk of Superior Court of Chatham County, North Carolina.

1.41 "Reuse Effluent": The waste water that has been treated to the point that it meets the quality standards required by the permit for the operation of the Private Sewer System issued by the Division of Water Quality of the North Carolina Department of Environmental Natural Resources, including all modifications thereto.

1.42 "Sewer Charge": Any monthly fee or charge established by the owner of the Private Sewer System and paid to the owner of the Private Sewer System for service from the Private Sewer System.

1.43 "Special Assessment": Assessments levied in accordance with Section 8.6.

1.44 "Specific Assessment": Assessments levied in accordance with Section 8.7.

1.45 "Supplemental Declaration": An instrument filed in the Public Records which subjects additional property to this Declaration, designates Neighborhoods, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.46 "Trail System": Those paved or unpaved portions of the Common Areas identified as "Trails" on any of the Plats or otherwise designated as part of the Trail System subsequently by Declarant or the Association. Declarant or the Association may designate portions of the Trail System for use exclusively as pedestrian trails for walking and running only.

1.47 "Unit": A portion of the Properties legally subdivided pursuant to one of the Plats, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term shall include within its meaning, by way of illustration but not limitation, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such, but shall not include Common Area, common property owned by any Neighborhood Association, or property dedicated to the public, if any. In the case of a building within a condominium or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to be a single Unit until such time as a subdivision plat or condominium plat is filed of record on all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

**Article 2.**  
**PROPERTY RIGHTS**

2.1 Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, which is appurtenant to and shall pass with the title to each Unit, subject to:

(a) This Declaration and all Governing Documents;

(b) Any restrictions or limitations contained in any deed conveying such property to the Association;

(c) The right of the Board to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;

(d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area pursuant to Section 4.3;

(e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;

(f) The right of the Board to impose reasonable requirements and charge reasonable admission or other use fees for the use of any facility situated upon the Common Area;

(g) The right of the Board and the Declarant to permit use of any facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of reasonable use fees, if any, established by the Board;

(h) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(i) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Exclusive Common Areas," as more particularly described in Section 2.2;

(j) The right of the Declarant to conduct activities within the Common Area, such as tournaments, charitable events, and promotional events and to restrict Owners from using the Common Area during such activities, provided such activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Owners' use and enjoyment of the Common Area and shall not exceed seven consecutive Days; and

(k) The right of the Declarant in its discretion, to construct and maintain a sales office within the Common Area and to conduct sales and marketing activities therein and thereon.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights appurtenant to the leased Unit to the lessee of such Unit, except for the right to vote as a Class "A" Member hereunder.

2.2 Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners and occupants of specified Units or Neighborhoods. By way of illustration and not limitation, Exclusive Common Areas may include entry features, recreational facilities, roads, landscaped medians and cul-de-sacs, ponds, lakes and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be assessed against the Owners of Units to which the Exclusive Common Areas are assigned either as a Neighborhood Assessment or as a Specific Assessment, as applicable.

Initially, any Exclusive Common Area shall be designated as such, and the exclusive use thereof shall be assigned, in the deed by which the Common Area is conveyed to the Association or in this Declaration or any Supplemental Declaration and/or on the subdivision plat relating to such Common Area; provided however, any such assignment shall not preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Units and/or Neighborhoods during the Development Period. Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area of particular Units or a particular Neighborhood or Neighborhoods and Exclusive Common Area may be reassigned upon approval of the Board and the vote of a Majority of the total Class "A" votes in the Association, including, if applicable, a Majority of the Class "A" votes within the Neighborhood(s) to which the Exclusive Common Area is assigned, if previously assigned, and within the Neighborhood(s) to which the Exclusive Common Area is to be assigned or reassigned.

The Association may, upon approval of a Majority of the Class "A" votes within the Neighborhood(s) to which any Exclusive Common Area is assigned, permit Owners of Units in other Neighborhoods to use all or a portion of such Exclusive Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses or Specific Assessments attributable to such Exclusive Common Area.

2.3 No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

2.4 Condemnation. If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of at least 67% of the total Class "A" votes in the Association and the written consent of the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 Days after such taking the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant, and at least 67% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board and the ARB. The provisions of Section 6.1 (c) regarding funds for the repair of damage or destruction shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

**Article 3.**

**MEMBERSHIP AND VOTING RIGHTS**

3.1 Membership. Every Owner of a Unit shall be a Member of the Association. In addition, owners of Adjacent Properties may be Members of the Association as set forth in Section 3.2(e). There shall be only one membership per Unit. If a Unit is owned by more than one Person, all Persons shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.2(e) and in the By-Laws. The membership rights of any Member which is not a natural person may be exercised by any officer, director, member, manager, partner or trustee, or by any individual designated from time to time by the Owner in a written instrument delivered to the secretary of the Association.

3.2 Voting. The Association shall have three classes of membership, Class "A", Class "B" and Class "C" as set forth below.

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 3.1; provided however, there shall be only one vote per Unit and no vote shall be exercised for any property which is exempt from assessment under Section 8.11. All Class "A" votes shall be cast as provided in Section 3.2(e) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. In the event that a specific vote shall ever be required of Declarant (separate from and in addition to, and not in abrogation of, Declarant's right to approve/disapprove matters under this Declaration), Declarant, as the Class "B" Member, shall have five (5) votes per Unit. The Class "B" Member may appoint a Majority of the members of the Board of Directors during the Class "B" Control Period which shall continue until the first to occur of the following:

(i) when 90% of the total number of Units permitted by the Master Plan for the property described on Exhibits "A" and "B" have certificates of occupancy issued thereon and have been conveyed to Persons other than Builders;

(ii) December 31, 2020; or

(iii) when, in its discretion, the Class "B" Member so determines and voluntarily relinquishes such right in a written instrument executed by Declarant and recorded in the Public Records.

After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws. The Class "B" membership shall terminate upon the earlier of:

- (iv) two years after expiration of the Class "B" Control Period; or
- (v) when, in its discretion, the Declarant so determines and declares in a written instrument executed by Declarant and recorded in the Public Records.

Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns.

(c) Class "C". Class "C" Members shall be those owners or operators of any portion of the Adjacent Properties, including but not limited to any Private Amenities, that have entered into an agreement with the Association for the Association to provide sewerage treatment services to such owner's or operator's portion of the Adjacent Properties. Such agreement shall set forth the number of votes that any such owner or operator is entitled to cast on any matters requiring a vote of the Class "C" Members; provided however, that each Class "C" Member shall be entitled to at least one vote. Class "C" Members shall not have the right to vote on any matters except as specifically set forth in the Governing Documents.

(d) Additional Classes of Membership. The Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Units within any additional property made subject to this Declaration pursuant to Article 7, with such rights, privileges and obligations as may be specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

(e) Exercise of Voting Rights by Class "A" Members. If there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it. No vote shall be exercised on behalf of any Unit if any assessment for such Unit is delinquent.

3.3 Neighborhoods. Every Unit shall be located within a Neighborhood; provided however, unless and until additional Neighborhoods are established, the Properties shall initially consist of three Neighborhoods. The Declarant, in its sole discretion, may establish Neighborhoods within the Properties by designation on Exhibit "A" to this Declaration, a Supplemental Declaration, or a plat. During the Development Period, the Declarant may unilaterally amend this Declaration or any Supplemental Declaration from time to time to assign property to a specific Neighborhood, to redesignate Neighborhood boundaries, or to remove property from a specific Neighborhood.

The Owner(s) of a Majority of the total number of Units within any Neighborhood may at any time petition the Board of Directors to divide the property comprising the Neighborhood into two or more Neighborhoods. Such petition shall be in writing and shall include a survey of the entire parcel which indicates the proposed boundaries of the new Neighborhoods or otherwise

identifies the Units to be included within the proposed Neighborhoods. Such petition shall be deemed granted 60 Days following the filing of all required documents with the Board unless the Board of Directors denies such application in writing within such 60 Day period. The Board may deny an application only upon determination that there is no reasonable basis for distinguishing between the areas proposed to be divided into separate Neighborhoods. All applications and copies of any denials shall be filed with the books and records of the Association and shall be maintained as long as this Declaration is in effect.

The Units within a particular Neighborhood may be subject to additional covenants and/or the Unit Owners may be members of a Neighborhood Association in addition to the Association. However, a Neighborhood Association shall not be required except as required by law. Any Neighborhood which does not have a Neighborhood Association may, but shall not be obligated to, elect a Neighborhood Committee, as described in the By-Laws, to represent the interests of Owners of Units in such Neighborhood.

Any Neighborhood may request that the Association provide a higher level of service or special services for the benefit of Units in such Neighborhood and, upon the affirmative vote, written consent, or a combination thereof, of Owners of a Majority of the Units within the Neighborhood, the Association may, in its sole discretion, provide the requested services. The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided any such administrative charge shall apply at a uniform rate per Unit to all Neighborhoods receiving the same service), shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment pursuant to Article 8 hereof.

**Article 4.**  
**RIGHTS AND OBLIGATIONS OF THE ASSOCIATION AND CERTAIN**  
**NOTICES TO OWNERS**

4.1 Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility and all improvements thereon. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may adopt pursuant to Article 10. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of North Carolina.

4.2 Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees, with the Declarant's prior written consent, may convey to the Association improved or unimproved real estate, or interests in real estate, located within the property described in Exhibits "A" or "B", personal property and leasehold and other property interests. Such property shall be accepted by the Association in its "as is" "where is" condition and subject to ordinary wear and tear, and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted

pursuant to this Section nor to make any changes or improvements to any property to cause it to be in compliance with any applicable laws or regulations, as such laws and regulations may change from time to time. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

4.3 Enforcement. The Board, or any committee established by the Board, may impose sanctions for violation of the Governing Documents after compliance with the notice and hearing procedures set forth in Section 3.25 of the By-Laws. Such sanctions may include, without limitation:

(a) imposing monetary fines which shall constitute a lien upon the Unit of the violator (In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the occupant; provided however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.);

(b) filing liens in the Public Records for nonpayment of any assessments or fees;

(c) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;

(d) suspending an Owner's right to vote;

(e) suspending any Person's right to use any recreational facilities within the Common Area including, without limitation, any swimming pool and clubhouse facilities; provided however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(f) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 Days delinquent in paying any assessment or other charge owed to the Association; and

(g) levying Specific Assessments to cover costs incurred in bringing a Unit into compliance in accordance with Section 8.7(b).

In addition, the Board, or the covenants committee if established, may elect to enforce any provision of the Governing Documents by entering the Unit and exercising self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules, the removal of pets that are in violation of pet rules or the correction of any maintenance, construction or other violation of the Governing Documents) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of the Governing

Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or prevent the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce county, city, state and federal ordinances, if applicable, and permit local and other governments to enforce ordinances on the Properties for the benefit of the Association and its Members.

4.4 Implied Rights: Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5 Governmental Interests. During the Development Period, the Declarant may designate sites within the Properties for public or quasi-public facilities. No membership approval shall be required for such designation. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. The sites may include other property not owned by Declarant provided the owner consents.

Notwithstanding anything contained herein to the contrary, the Declarant may, in its sole discretion, convey the Private Sewer System serving the Properties to a private utility company or governmental entity and any value received shall be the sole property of Declarant.

4.6 Indemnification. The Association shall indemnify every officer, director, ARB member and committee member against all damages, liability, and expenses, including attorneys fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, ARB member or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles of Incorporation and North Carolina law.

The officers, directors, and ARB and other committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors and ARB and other committee members shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers, directors or ARB or other committee members may also be Members of the Association). The

Association shall indemnify and forever hold each such officer, director and ARB and other committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or ARB or other committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.7 Dedication of or Grant of Easement on Common Area. The Association may dedicate portions of the Common Area to Chatham County, North Carolina, or to any other local, state, or federal governmental or quasi-governmental entity or private utility provider.

4.8 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measure, including any mechanism or system for limiting access to the Properties such as gates or gate houses or the placing of any personnel in connection with limiting such access, can not be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

Any gatehouse and/or controlled access gate constructed on the Common Area is intended solely for the convenience of Owners and should not be relied upon for security for any Owner, resident or occupant of the Properties or their guests or invitees. Neither Declarant nor the Association or any member of its Executive Board shall be responsible or liable in any way for damages to anyone by reason of any defects, mistake in judgment, negligence, misfeasance, malfeasance or nonfeasance arising out of or in connection with the construction, maintenance, or operation of any gatehouse or controlled access gate.

4.9 Street Lighting Agreement. Declarant reserves the right to subject the Properties to a contract with an electric or natural gas utility company for the installation of underground electric cables or gas lines and/or the installation of street lighting, either or both which may require an initial payment and/or a continuing monthly payment to such utility company by each Owner or the Association. All street lights shall be installed or aimed so as to minimize a disabling glare to drivers or pedestrians or a nuisance glare to neighboring properties.

4.10 Short Irons Golf Facility. By acceptance of a deed to any Unit, each Owner acknowledges and agrees that owning property adjacent to or near a short irons golf facility has benefits as well as detriments and that the detriments include: (a) the risk of damage to property or injury to persons and animals from golf balls which are hit onto an Owner's Unit or other

portion of the Properties; (b) the entry by golfers onto an Owner's Unit or other portion of the Properties utilized by the Owner to retrieve golf balls; (c) over spray in connection with the watering of the roughs, fairways and greens on the golf facility; (d) noise from golf facility maintenance and operation equipment (including, without limitation, compressors, blowers, mulches, tractors, utility vehicles and pumps, all of which may be operated at all times of the day and night and/or continuously); (e) odors arising from irrigation and fertilization of the turf situated on the golf facility; and (f) disturbance and loss of privacy resulting from golfers. Additionally each Owner acknowledges that pesticides and chemicals may be applied to the golf facility throughout the year and that reclaimed water, treated waste water or other sources of non-potable water may be used for irrigation of the golf facility. Nothing in this Section 4.10 shall obligate Declarant or any third party to create or operate a short-irons golf facility either as a part of the Common Area or as a Private Amenity.

Each Owner expressly assumes such detriments and risks and agrees that neither the Declarant or any successor Declarant; the Association or its Members (in their capacity as such); the owner(s) of any golf facility or their successors, successors-in-title, or assigns; any officer, director or partner of any of the foregoing; nor any officer or director of any partner of any of the foregoing shall be liable to any Owner or anyone claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of an Owner's Unit to any golf facility, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, the owner of any golf facility, or their successors or assigns. Each Owner hereby agrees to indemnify and hold harmless the Declarant and any successor Declarant; the Association and its Members (in their capacity as such); the owner(s) of the Private Amenities and their successors, successors-in-title, and assigns; any officer, director or partner of any of the foregoing; and any officer or director of any partner of the foregoing against any and all such claims by Owner's invitees.

4.11 Presence and Management of Wildlife. Each Owner and occupant, and each tenant, guest and invitee of any Owner or occupant acknowledges that the Properties are located adjacent to and in the vicinity of wetlands, bodies of water and other natural areas. Such areas may contain wildlife, including without limitation, deer, and raccoons. Neither the Association, the Board, the original Declarant, nor any successor Declarant shall be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence of such wildlife on the Properties. Each Owner and occupant of a Unit and each tenant, guest, and invitee of any Owner or occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of such wildlife and further acknowledges that the Association, the Board, the original Declarant or any successor Declarant have made no representations or warranties, nor has any Owner or occupant, or any tenant, guest, or invitee of any Owner or occupant relied upon any representations or warranties, expressed or implied, relative to the presence of such wildlife.

The Declarant, acting in its sole and absolute discretion, retains the right, but not the obligation, to engage in wildlife and fishery management plans and practices on the Properties to the extent that such practices are permitted by applicable state and federal law. For the purpose of illustration and not limitation, this includes the right to manage and control any populations of

deer, raccoons, and other wildlife through a variety of techniques, including organized hunting, shooting and trapping. The Declarant hereby reserves the right to assign these management rights to the Association.

4.12 Meadows, Trail System, and Private Sewer System. By acceptance of a Deed to any Unit, each Owner acknowledges and agrees that owning Property adjacent to any Meadows areas or to any portion of the Private Sewer System has benefits as well as detriments. Among other things, the detriments may include the use of such Meadows areas by the Association, the Declarant, or a Class "C" Member for spray irrigation of Reuse Effluent. Furthermore, each Owner acknowledges and agrees that portions of the Trail System may or may not be paved, may or may not be level, and may be affected by spray irrigation of Reuse Effluent.

Each Owner expressly assumes any detriments arising out of proximity to the Meadows or the Private Sewer System or out of any use of the Trail System and agrees that neither the Declarant nor any successor Declarant; the Association or its Members (in their capacity as such) nor any Class "C" Member; nor any officer or director or any partner of any of the foregoing shall be liable to any Owner or anyone claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of Property, trespass or any other alleged wrong or entitlement to remedy based upon due to arising from or otherwise related to the proximity of an Owner's Unit to the Meadows or to the Private Sewer System or out of any use of the Trail System, including, without limitation, any claim for nuisance or any claim arising in whole or in part from the negligence of Declarant, the Association, or its Members (in their capacity as such), or any officer or director or partner of any of the same, or their successors or assigns.

4.13 Disclaimer as to Water Bodies. Neither the Declarant, the Association, nor any of their successors, assigns, officers, directors, committee members, employees, management agents, contractors or sub-contractors (collectively, the "listed parties") shall be liable or responsible for maintaining or assuring the water quality or level in any lake, pond, canal, creek, stream, waterfall, water feature, or other water body adjacent to or within the Properties, except as such responsibility may be specifically imposed by an applicable governmental or quasi-governmental agency or authority. Further, all owners and users of any portion of the Properties located adjacent to or having a view of any of the aforesaid water bodies shall be deemed, by virtue of their acceptance of the Deed to, or use of, such Property, to have agreed to hold harmless the listed parties for any and all changes in the quality and level of the water in such bodies.

All persons are hereby notified that from time to time alligators, poisonous snakes, and other wildlife may inhabit or enter into water bodies and natural areas within the property and may pose a threat to persons, pets and property, but that the listed parties are under no duty to protect against, and do not in any manner warrant against, any death, injury or damage caused by such wildlife.

All persons are hereby notified that lake banks and slopes within certain areas of the Property may be steep and that depths near shore may drop off sharply and that such lake banks and slopes and (any waterfall or other water features) may be inherently dangerous. By acceptance of a Deed to, or use of, any lot or other portion of the Properties, all owners or users

of such Properties shall be deemed to have agreed to hold harmless the listed parties from any and all liability or damages arising from the design, construction, or topography of any lake banks, slopes, lake bottoms, waterfalls or other water features located therein and hereby expressly assume all responsibility with respect to the safety of themselves, their families, and their invitees.

**Article 5.**  
**MAINTENANCE**

**5.1 Association's Responsibility.**

(a) The Association shall maintain and keep in good condition, order and repair the Area of Common Responsibility, which shall include, but need not be limited to:

(i) Common Area, including the Meadows, the Trail System, any swimming pool and clubhouse facilities, and the waterfall or other water features; provided, however, that the maintenance of elements of the Private Sewer System located in the Common Area shall be the responsibility of the utility company operating the system;

(ii) The private streets within the Properties, including, without limitation, any gatehouse, gates and other controlled access facilities;

(iii) all landscaping and other flora, parks, lakes, ponds, structures, and improvements, including any entry features, private streets, bike and pedestrian pathways/trails, situated upon the Common Area;

(iv) all furnishings, equipment and other personal property of the Association;

(v) any street trees, landscaping and other flora, buffers (unless such areas are maintained by the owner of the Private Amenity), parks, bike and pedestrian pathways/trails, the Trail System, structures and improvements within public rights-of-way within or abutting the Properties or upon such other public land adjacent to the Properties as deemed necessary in the discretion of the Board;

(vi) such portions of any Additional Properties included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any Cost Sharing Agreement, or any contract or agreement for maintenance thereof entered into by the Association;

(vii) all streams and/or wetlands located within the Properties which serve as part of the drainage and storm water retention system for the Properties, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith unless such facilities are located within a Private Amenity and are maintained by the owner of the Private Amenity; and

(viii) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its

Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may, as a Common Expense, maintain other property and improvements which it does not own, including, without limitation, property dedicated to the public, or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. For example, the Association may maintain any fence, wall, entry feature or sign serving to enhance or designate the entry to The Legacy at Jordan Lake regardless that such improvements are not located within the Common Area or the Properties.

(b) The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (a) such maintenance responsibility is otherwise assumed by or assigned by the Association or by the Declarant to a third-party operator (including, without limitation, Heater Utilities, Inc.), an Owner, a Neighborhood Association or the owner of a Private Amenity or (b) such property is dedicated to any other local, state or federal governmental or quasi-governmental entity; provided however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(c) The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members holding 67% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means during the Development Period except with the written consent of the Declarant.

(d) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, any Cost Sharing Agreements, any recorded covenants, or any agreements with the owner(s) thereof. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a Neighborhood Expense assessed as a Neighborhood Assessment solely against the Units within the Neighborhood(s) to which the Exclusive Common Areas are assigned, or a Specific Assessment against the particular Units to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

(e) The Association may mow and maintain on each unimproved Unit any grass within that portion of the Unit located between the lot boundary adjacent to the street to the rear property line. For purposes of this section, unimproved Unit shall mean a Unit without a dwelling.

(f) Notwithstanding the foregoing, prior to conveyance of the Common Areas (including the private streets located on the Properties) to the Association, Declarant shall be responsible for the maintenance and repair thereof.

5.2 Owner's Responsibility. Each Owner shall maintain his or her Unit, and all structures, parking areas, landscaping and other flora and other improvements comprising the Unit in a manner consistent with the Community-Wide Standard and all Governing Documents, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood Association. In addition, it shall be the responsibility of the Owner of each Unit with a gravity service line to maintain the wastewater service line from their residence to the cleanout at or near the property line. If the cleanout is not at or near the property line, then the Owner of that Unit shall be responsible for maintenance of the wastewater service line up to the property line. Each Owner of a Unit that is required to have a Grinder Pump Station shall have the responsibilities set forth in Section 11.12 hereof. With respect to any Unit upon which a dwelling has not yet been constructed, such maintenance responsibility shall include, but is not limited to, the removal of all litter and trash and lawn mowing on a regular basis. In addition to any other enforcement rights, if an Owner fails to perform properly his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in accordance with Section 8.7. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3 Neighborhood's Responsibility. Upon resolution of the Board of Directors, the Owners of Units within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and greenspace between the Neighborhood and adjacent public roads; provided however, all Neighborhoods which are similarly situated shall be treated the same.

Any Neighborhood Association having responsibility for maintenance within a particular Neighborhood pursuant to additional covenants applicable to such Neighborhood shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If it fails to do so, the Association may perform such responsibilities and assess the costs as a Specific Assessment against all Units within such Neighborhood as provided in Section 8.7.

5.4 Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all Governing Documents. Neither the Association, any Owner nor any Neighborhood Association shall be liable for any damage or injury occurring on, or arising out of the condition

of, property which such Person does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

5.5 Party Walls and Similar Structures

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

(c) Damage and Destruction. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

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

5.6 Cost Sharing Agreements. The Association may enter into Cost Sharing Agreements with the owners or operators of portions of the Adjacent Properties, including the Private Amenities:

(a) to obligate the owners or operators of such Adjacent Properties to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of the Area of Common Responsibility, if any, which are used by or benefit jointly the owners or operators of such Adjacent Properties and the owners within the Properties;

(b) to permit the use of any recreational and other facilities located on such Adjacent Properties by the Owners of all Units or by the Owners of Units within specified Neighborhoods; and/or

(c) to obligate the Association to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of such Adjacent Properties, if any, which are used by or benefit jointly the owners of such Adjacent Properties and the owners within the Properties.

The owners of such Adjacent Properties shall not be Members of the Association and shall not be entitled to vote on any Association matter unless any such owner qualifies as a Class "C" Member of the Association as set forth in Section 3.2(c) of this Declaration.

The owners of such Adjacent Properties shall be subject to assessment by the Association only in accordance with the provisions of such Cost Sharing Agreement(s). If the Association is obligated to share costs incurred by the owners of such Adjacent Properties, the Cost Sharing Agreement shall provide whether such payments by the Association shall constitute Common Expenses or Neighborhood Expenses of the Association. The owners of the Adjacent Properties shall not be subject to the restrictions contained in this Declaration except as otherwise specifically provided herein.

**Article 6.**

**INSURANCE AND CASUALTY LOSSES**

**6.1 Association Insurance.**

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect such types of insurance as set forth in Section 47F-3-113 of the North Carolina Planned Community Act (the "Act"), including the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area, if any, and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The Association shall have the authority to and interest in insuring any property for which it has maintenance or repair responsibility, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage, provided should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth of the annual General Assessments on all Units plus reserves

on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in its best business judgment, determines advisable, which may include, without limitation, flood insurance, boiler and machinery insurance, and building ordinance coverage.

In addition, the Association may obtain and maintain property insurance on the insurable improvements within any Neighborhood in such amounts and with such coverages as the Owners in such Neighborhood may agree upon pursuant to Section 3.3(a). Any such policies shall provide for a certificate of insurance to be furnished to the Neighborhood Association and to the Owner of each Unit insured upon request.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the General Assessment, except that (i) premiums for property insurance obtained on behalf of a Neighborhood shall be charged to the Owners of Units within the benefited Neighborhood as a Neighborhood Assessment; and (ii) premiums for insurance on Exclusive Common Areas may be included in the Neighborhood Assessment of the Neighborhood(s) benefited unless the Board of Directors reasonably determines that other treatment of the premiums is more appropriate. The Association shall have no insurance responsibility for any portion of the Private Amenities.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Chatham County, North Carolina.

All Association policies shall provide for a certificate of insurance to be furnished to each Member insured and to the Association upon request.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 6.1(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Units pursuant to Section 8.7.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of North Carolina which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and

the Owners. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners of Units within the Neighborhood and their Mortgagees, as their interests may appear;

- (iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;
- (iv) contain an inflation guard endorsement; and
- (v) include an agreed amount endorsement, if the policy contains a co-insurance clause.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

- (i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;
- (ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;
- (iii) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;
- (iv) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;
- (v) an endorsement requiring at least 30 Days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;
- (vi) a cross liability provision; and
- (vii) a provision vesting the Board with the exclusive authority to adjust losses; provided however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Damage and Destruction. Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this subsection means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless at least 80% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 Days after the loss not to repair or reconstruct.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-Day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional Days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. If any portion of the community is not repaired or reconstructed as set forth above, any insurance proceeds shall be distributed to all the Members (of, if appropriate, their Mortgagees) of the Association or the Neighborhood, as appropriate.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association or the Neighborhood, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 6.1(a).

**6.2 Owners' Insurance.** By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either the Neighborhood Association (if any) for the Neighborhood in which the Unit is located or the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner thereof pursuant to Section 8.7.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 9. The ARB shall have the authority to establish time periods for commencing and completing any repair or reconstruction. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

The requirements of this Section shall apply to any Neighborhood Association that owns common property within the Neighborhood in the same manner as if the Neighborhood Association were an Owner and the common property were a Unit. Additional recorded covenants applicable to any Neighborhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Neighborhood and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

6.3 Limitation of Liability. Notwithstanding the duty of the Association to maintain and repair portions of the Common Area, neither the Association, its Board of Directors, its successors or assigns, nor any officer or director or committee member, employee, agent, contractor (including the management company, if any) of any of them shall be liable to any Member or any member of a Member's immediate household for any injury or damage sustained in the Area of Common Responsibility, the Common Area or other area maintained by the Association, or for any injury or damage caused by the negligence or misconduct of any Members or their family members, guests, invitees, agents, servants, contractors or lessees, whether such loss occurs in the Common Area or in individual Units.

Each Owner, by virtue of the acceptance of title to his or her Unit, and each other Person having an interest in or right to use any portion of the Properties, by virtue of accepting such interest or right to use, shall be bound by this Section and shall be deemed to have automatically waived any and all rights, claims, demands, and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed under this Section.

#### Article 7.

#### ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1 Annexation by Declarant. Until 20 years after the recording of this Declaration in the Public Records, Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the Additional Property. The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer or "owner" of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing the property being annexed. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the Additional Property in any manner whatsoever.

7.2 Annexation by Membership. The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members representing a Majority of the Class "A" votes of the Association represented at

a meeting duly called for such purpose, and the written consent of the Declarant during the Development Period. Nothing in this Section 7.2 is intended to affect or abrogate Declarant's rights under Section 7.1, above.

Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Records. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3 Withdrawal of Property. The Declarant reserves the right to amend this Declaration during the Development Period, for the purpose of removing any portion of the Properties from the coverage of this Declaration, provided such withdrawal is not contrary to the overall, uniform scheme of development for the Properties. By way of example, and not limitation, of the foregoing, a removal of property for the purpose of (i) adjusting boundary lines, (ii) complying with any applicable governmental statute, rule, regulation or judicial determination, (iii) enabling any reputable title insurance company to issue title coverage regarding the Properties or on any portion thereof, (iv) enabling any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Units, (v) satisfying the requirements of any local, state or federal governmental agency, (vi) conveying interests in the Properties for conservation and/or preservation purposes as provided in Section 11.2 hereof, or (vii) exempting any tracts of land, either designated now or in the future for nonresidential development, from the provisions of this Declaration, shall be deemed as a permissible withdrawal which is not inconsistent with the overall uniform scheme of development. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

7.4 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through Neighborhood Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrently with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

7.5 Amendment. This Article shall not be amended during the Development Period without the prior written consent of Declarant.

**Article 8.**  
**ASSESSMENTS**

8.1 Creation of Assessments. There are hereby created assessments for Association expenses as the Board may specifically authorize from time to time. There shall be four types of assessments: (a) General Assessments to fund Common Expenses for the general benefit of all Units; (b) Neighborhood Assessments for Neighborhood Expenses benefiting only Units within a particular Neighborhood or Neighborhoods; (c) Special Assessments as described in Section 8.6; and (d) Specific Assessments as described in Section 8.7. Each Owner, by accepting a deed or entering into a contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments and fees, together with interest, late charges, costs of collection, and reasonable attorneys fees, shall be a charge and continuing lien upon each Unit against which the assessment is made until paid, as more particularly provided in Section 8.8. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Unit by exercising the remedies provided in its Mortgage or through a deed in lieu of foreclosure shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon written request, furnish to any Owner liable for any type of assessment a written statement signed by an Association officer setting forth whether such assessment has been paid. Such statement shall be furnished within 10 business days after receipt of the request and shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such statement.

Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price differentials. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the General Assessment and any Neighborhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any assessment or installment thereof shall be considered delinquent on the 15th day following the due date unless otherwise specified by Board resolution.

No Owner may exempt himself from liability for assessments by non-use of Common Area, including Exclusive Common Area reserved for such Owner's use, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

8.2 Declarant's Obligation for Assessments. In all events, during the Class "B" Control Period, Declarant's obligation to pay assessments with respect to any Units owned by Declarant shall be 50% of the amount of the assessment for other Owners, and, further, Declarant may annually elect either to pay an amount equal to its regular assessment amount on all of its unsold Units or to pay the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. Unless the Declarant otherwise notifies the Board in writing at least 60 Days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. The Declarant's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

8.3 Computation of General Assessment. At least 30 Days before the beginning of each fiscal year, the Board shall adopt a budget covering the estimated Common Expenses during the coming year, which may include a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 8.5.

By acceptance of a Deed to any Unit each Owner acknowledges and agrees that there shall always be collected as part of the General Assessment \$5.00 per month from each Unit in order to create a separate scholarship fund to be used in the Board's discretion to fund academic scholarships for Chatham County youth. Such scholarship fund assessment amount may increase from time to time in the same proportion as the General Assessment, itself, may increase from time to time.

By acceptance of a Deed to any Unit each Owner acknowledges and agrees that when Declarant shall construct a swimming pool and clubhouse on and as part of the Common Area, the General Assessment shall be adjusted as necessary and appropriate in the Board's discretion to cover the operating and maintenance costs thereof (including reserves).

General Assessments shall be levied equally against all Units subject to assessment and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the total funds to be generated through the levy of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years and any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

During the Class "B" Control Period, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy and/or contributions of services and materials (in addition to any amounts paid by Declarant under Section 8.2), which may be treated as either a contribution or an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such anticipated payment or contribution by the Declarant shall be disclosed as a line item in the Common Expense budget.

Payments by the Declarant in any year shall under no circumstances obligate the Declarant to continue such payments in future years and the treatment of such payment shall be made known to the membership, unless otherwise provided in a written agreement between the Association and the Declarant.

At least 30 Days prior to the beginning of the fiscal year for which a budget is to be effective, and no more than 30 Days after the budget's adoption by the Board, the Board shall send a summary of the budget and notice of a meeting to consider its ratification to each Owner. The notice shall include a statement that the budget may be ratified without a quorum. Such budget and related assessment amount shall become effective and ratified unless disapproved at said meeting by Members representing at least 67% of the total Class "A" votes in the Association and by the Declarant, during the Development Period. Assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. The Board shall send a copy of the revised budget to each Owner at least 30 Days prior to its becoming effective. The revised budget shall become effective unless disapproved in accordance with the above procedure.

8.4 Computation of Neighborhood Assessments. At least 30 Days before the beginning of each fiscal year, the Board shall adopt a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration, any Supplemental Declaration, or the By-Laws specifically authorizes the Board to assess certain costs as a Neighborhood Assessment. Any Neighborhood may request that additional services or a higher level of services be provided by the Association and, upon approval of Owners in accordance with Section 3.3(a), any additional costs shall be added to such budget. Such budget shall include a contribution establishing a reserve fund for repair and replacement of capital items maintained as a Neighborhood Expense, if any, within the Neighborhood. Neighborhood Expenses shall be allocated equally among all Units within the Neighborhood(s) benefited thereby and levied as a Neighborhood Assessment.

At least 30 Days prior to the beginning of the fiscal year, and no more than 30 Days after the budget's adoption by the Board, the Board shall cause a copy of such budget and notice of a meeting to consider its ratification to be delivered to each Owner of a Unit in the Neighborhood. The notice shall include a statement that the budget may be ratified without a quorum. Such budget and related assessment shall become effective and ratified unless disapproved by Owners of a Majority of the Units in the Neighborhood to which the Neighborhood Assessment applies and by the Declarant, during the Development Period. This right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood. Assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

If the Owners within any Neighborhood disapprove any line item of a Neighborhood budget, the Association shall not be obligated to provide the services anticipated to be funded by such line item of the budget. If the Board fails for any reason to determine a Neighborhood budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

8.5 Reserve Budget and Capital Contribution. The Board may annually prepare reserve budgets for both general and Neighborhood purposes which take into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost; such assets shall include, without limitation, the clubhouse, swimming pool(s), private roads, and gates and gate houses. If a reserve budget is prepared, the Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual General Assessments or Neighborhood Assessments, as appropriate, over the budget period.

8.6 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against all Units, if such Special Assessment is for Common Expenses, or against the Units within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Special Assessments shall be allocated equally among all Units subject to such Special Assessment. Any Special Assessment shall become effective unless disapproved at a meeting of Members representing at least 67% of the total Class "A" votes allocated to Units which will be subject to such Special Assessment and by the Declarant during the Development Period. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within 20 Days after delivery of the notice of such Special Assessment. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.7 Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Unit or Units as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit(s) or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and occupants (which might include, without limitation, landscape maintenance, janitorial service, pest control, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner;

(b) to cover the costs associated with maintenance, repair, replacement and insurance of any Exclusive Common Area assigned to one or more Units; and

(c) to cover costs incurred in bringing the Unit(s) into compliance with the terms of the Governing Documents or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided however, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (c).

The Association may also levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, and rules; provided however, the Board shall give prior written notice to the Owners of Units in the Neighborhood and an opportunity for such Owners to be heard before levying any such assessment.

8.8 Remedies for Non-Payment of Assessments. Any assessments or other charges which are not paid when due shall be delinquent. Delinquent assessments shall bear interest from the due date at the rate established by the Board of Directors of the Association, or if not set by the Board, at the highest rate allowed by law, together with such late fees as may be set by the Board. The Association may file a lien of record against any Unit where there remains an assessment unpaid for a period of thirty (30) Days or longer. Said lien shall be filed in the Public Records in a manner provided therefor by Section 47F-3-116 of the Act. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. The Association may bring an action at law against any Owner personally obligated to pay any assessments, charges, interest or other costs. Costs and reasonable attorneys' fees for the prosecution of any such action shall be added to the amount due. In the event of such action at law and in the further event that such action results in a judgment being entered against the Owner and in favor of the Association, then, and in that event, the Association shall collect on such judgment in such manner and to the extent provided and permitted by the laws of the State of North Carolina.

The Association's lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Chapter 45 of the North Carolina General Statutes. All fees, charges, late charges, fines, and interest are enforceable as assessments. Provided, however, that the availability of such foreclosure under Chapter 45 with respect to such fees, charges, late charges, fines and interest may be limited pursuant to the Act.

In any foreclosure action brought under the power of sale provisions, the Association shall be deemed to be the holder and owner of the obligation secured by this Declaration. The registered agent of the Association shall be the trustee for all purposes of the foreclosure proceeding, and the Association shall have the power to appoint a substitute trustee if for any reason the Association desires to replace the trustee, and the substitute trustee shall succeed to all rights, powers and duties thereof. The Association shall request of the trustee to sell the Unit subject to the lien at public action for cash, after having first given such notice and advertising the time and place of such sale in such manner as may then be provided by law for mortgages and deeds of trust, and upon such sale and upon compliance with the law then relating to

foreclosure proceedings under power of sale to convey to the purchaser in as full and ample manner as authorized by Chapter 45. The trustee shall be authorized to retain an attorney to represent such trustee in such proceedings. The proceeds of the sale shall, after the trustee retains its commission, together with any additional attorneys' fees incurred by the trustee, be applied to the costs of the sale, including but not limited to costs of collection, taxes, assessments, costs of recording, service fees, and incidental expenditures, the amount due on any note secured by the Unit, and any advancements made by the Association in the protection of the security.

The Association may bid for the Unit, at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.9, including such acquirer, its successors and assigns.

All other Persons acquiring liens or encumbrances on any Unit after this Declaration has been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

**8.9 Date of Commencement of Assessments.** With respect to any Unit(s) owned by any Owner (other than a Builder and Declarant), the obligation to pay assessments shall commence as to each Unit as follows: for any Units title to which has been conveyed to an Owner prior to or on January 1, 2007, the obligation to pay assessments shall commence on January 1, 2007; for any Units title to which has been conveyed to an Owner after January 1, 2007, the obligation to pay assessments shall commence on the date of conveyance of title to the Unit into the Owner. With respect to any Unit owned by a Builder, assessments shall commence upon the earlier of (a) issuance of a certificate of occupancy with respect to such Unit, (excluding any period that such Unit is being used exclusively as a model home or a sales office approved by Declarant); or (b) one year from the date that such Builder or any entity or Person related to such Builder acquired title to such Unit. The first annual General Assessment and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of Days remaining in the fiscal year at the time of assessments commence on the Unit.

**8.10 Failure to Assess.** Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall

continue to pay General Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

8.11 Exempt Property. The following property shall be exempt from payment of General Assessments, Neighborhood Assessments, and Special Assessments:

- (a) All Common Area and such portions of the property owned by the Declarant as are included in the Area of Common Responsibility pursuant to Section 5.1;
- (b) Any property dedicated to and accepted by any governmental authority or public utility;
- (c) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common; and
- (d) Private Amenities.

8.12 Capitalization of Association. Upon acquisition of record title to a Unit by the first Owner thereof other than the Declarant, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in the amount of \$250.00. This amount shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of such assessment. This amount shall be collected and disbursed to the Association at closing of the purchase and sale of the Unit to the first owner, the capital contribution shall be paid immediately upon demand by the Association. Capital contributions shall be used by the Association in covering operating expenses and other expenses incurred by the Association pursuant to the Governing Documents.

8.13 Telecommunication Assessment. In addition to the other assessments that the Association is authorized and empowered to establish, make, levy, impose, enforce, and collect under this Declaration, there shall also be a separate assessment to pay to IFP, as limited agent of the Association, to cover the costs of provision of the Telecommunications Services to Owners (excluding the costs of the installation, operation, and maintenance of the Infrastructure, as defined in Section 15.14 hereof, which costs are to be paid by IFP). Except to the extent otherwise provided by applicable law, the Telecommunication Assessment excludes any limitation on increases which may occur in the amount of any assessments under the Declaration. The Telecommunication Assessment shall be paid monthly by each Owner to the Association for the provision of Telecommunication Services to Owner's Lot through Bulk Service Agreements, as defined in Section 15.14 hereof. The Telecommunication Assessment shall include the fee, any applicable taxes, franchise fees, surcharges or other amounts that may be charged by the service providers for provision of Telecommunication Services. The Telecommunication Assessment may be billed separately from other assessments and shall be subject to the terms and conditions applicable to assessments contained in this Article 8, provided that such terms and conditions are not otherwise inconsistent with this Section 8.13. No Owner may be exempted from liability for the Telecommunication Assessment by reason of waiver of the use or enjoyment of the Telecommunication Services. Notwithstanding the foregoing and any other

provision of this Declaration with respect to the Communication Easement and the Telecommunication Assessment, IFP shall have no right or standing hereunder to enforce the provisions of this Declaration with respect to collection of assessments, which right and standing is expressly reserved to Declarant and the Association. The Declarant and the Association shall have the right to enforce, by a proceeding at law or equity, the provisions contained in this Declaration which relate to the Telecommunication Assessment. Any amendment to this Declaration which alters any provision relating to the Communication Easement, Telecommunication Services, or the Telecommunication Assessment must have the prior written approval of the Declarant and IFP. For purposes of this Declaration, except as otherwise provided by applicable law, any contracts entered into between Declarant and IFP or between the Association and IFP and/or any providers of Telecommunication Services shall be deemed bona fide contracts and not unconscionable and shall not be terminable by the Association following the termination or conversion of Declarant's Class B membership hereunder.

**Article 9.**

**ARCHITECTURAL STANDARDS**

9.1 General. No exterior structure or improvement, as described in Section 9.4 shall be placed, erected, installed or made upon any Unit or adjacent to any Unit where the purpose of the structure is to service such Unit, and no improvements shall be permitted except in compliance with this Article, and with the prior written approval of the appropriate reviewing body under Section 9.2, unless exempted from the application and approval requirements pursuant to Section 9.3.

Any Owner may remodel, paint or redecorate the interior of structures on his Unit without approval. However, modifications to the interior of porches, screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect or an experienced residential designer unless Declarant or its designee otherwise approves in its sole discretion, and an Owner must choose as his Builder a member of Declarant's Builder Team, as more particularly set out in the Design Guidelines.

This Article shall not apply to the activities of the Declarant, nor to improvements to the Common Area by or on behalf of the Association or to improvements to any Private Amenity.

This Article may not be amended without the Declarant's written consent during the Development Period.

9.2 Architectural Review. Responsibility for administration of the Design Guidelines and review of all applications for construction and modifications under this Article shall be handled by the ARB, the members of which need not be Members of the Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the ARB. The ARB may establish and charge reasonable fees for review of applications

hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred by the ARB in having any application reviewed by architects, engineers or other professionals.

The ARB shall have exclusive jurisdiction over all construction on any portion of the Properties. Until 100% of the Properties have been developed and conveyed to Owners other than Builders, and initial construction on each Unit has been completed in accordance with the Design Guidelines, the Declarant retains the right to appoint all members of the ARB which may consist of one or more Persons, who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration or surrender of such right, the Board shall appoint the members of the ARB who shall thereafter serve and may be removed in the Board's discretion.

9.3 Guidelines and Procedures.

(a) Design Guidelines. The Declarant shall prepare the initial Design Guidelines for the Properties. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary according to land use and from one portion of the Properties to another depending upon the location, unique characteristics, and intended use. For example, by way of illustration but not limitation, the Design Guidelines may impose stricter requirements on those portions of the Properties adjacent to or visible from any Private Amenity or any lake, pond, river, stream or other body of water. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the committees in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the committees and compliance with the Design Guidelines does not guarantee approval of any application.

The ARB shall adopt the Design Guidelines prior to closing on the first Unit and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; the ARB is expressly authorized to amend the Design Guidelines to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive. The ARB shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties.

(b) Procedures. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the appropriate ARB for review and approval (or disapproval). In addition, information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable and as required by the Design Guidelines. In reviewing each submission, the committees may consider the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other considerations. Decisions of the committees

may be based solely on aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary overtime.

In the event that the ARB fails to approve or to disapprove any application within 30 Days after submission of all information and materials reasonably requested, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the ARB pursuant to Section 9.7.

Notwithstanding the above, the ARB by resolution may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

9.4 Specific Guidelines and Restrictions

(a) Exterior Structures and Improvements. Exterior structures and improvements shall include, but shall not be limited to, staking, clearing, excavation, grading and other site work; installation of utility lines or drainage improvements; initial construction of any dwelling or accessory building; exterior alteration of existing improvements; installation or replacement of mailboxes; basketball hoops; swing sets and similar sports and play equipment; clotheslines; garbage cans; wood piles; swimming pools; gazebos or playhouses; window, or "through the wall" air-conditioning units or fans; hot tubs; solar panels; antennas; satellite dishes or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind; hedges, walls, dog runs, animal pens, or fences of any kind, including invisible fences; artificial vegetation or sculpture; and planting or removal of landscaping materials. Notwithstanding the foregoing, the Declarant and the Association shall regulate antennas, satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind only in strict compliance with all federal laws and regulations.

(b) In addition to the foregoing activities requiring prior approval, the following items are strictly regulated, and the reviewing body shall have the right, in its sole discretion, to prohibit or restrict these items within the Properties. Each Owner must strictly comply with the terms of this Section unless approval or waiver in writing is obtained from the appropriate reviewing body. The ARB may, but is not required to, adopt specific guidelines as part of the Design Guidelines or rules and regulations which address the following items.

(i) Signs. No "for sale" or "for rent" signs are permitted on the Properties. No other sign of any kind shall be erected by an Owner or occupant without the prior written consent of the ARB, as applicable, except (1) such signs as may be required by legal proceedings; and (2) not more than one door or window mounted professional security stickers (no yard signs) of such size deemed reasonable by the ARB in its sole discretion. Unless in compliance with this Section, no signs shall be posted or erected by any Owner or occupant within any portion of the Properties, including the Common Area, any Unit, any structure or dwelling located on the Common Area or any Unit (if such sign would be visible from the exterior of such structure or dwelling as determined in the reviewing body's sole discretion) or from any Private Amenity.

The Declarant and the ARB reserve the right to prohibit signs and to restrict the size, content, color, lettering, design and placement of any approved signs. All authorized signs must be professionally prepared. This provision shall not apply to entry, directional, or other signs installed by the Declarant or its duly authorized agent as may be necessary or convenient for the marketing and development of the Properties, including, without limitation, "for sale" signs installed by Declarant and Builder signs installed in accordance with the Design Guidelines.

(ii) Tree Removal. No trees that are more than six (6) inches in diameter at a point two (2) feet above the ground shall be removed without the prior written consent of the ARB except as otherwise provided in the Design Guidelines; provided however, any diseased or dead trees needing to be removed to promote the growth of other trees or for safety reasons may be removed without the written consent of the ARB. The ARB may adopt or impose requirements for, or condition approval of, tree removal upon the replacement of any tree removed.

(iii) Lighting. Exterior lighting visible from a public street shall not be permitted except for: (1) approved lighting as originally installed on a Unit; (2) one (1) approved decorative post light; (3) pathway lighting; (4) porch lighting (5) street lights in conformity with an established street lighting program for the Properties; (6) seasonal decorative lights during the usual and common season; or (7) front house illumination of model homes. All lights shall be installed or aimed so that they do not present a disabling glare to drivers or pedestrians or create a nuisance by projecting or reflecting objectionable light onto a neighboring property.

(iv) Temporary or Detached Structures. Except as may be permitted by the Declarant during initial construction, or the ARB thereafter, no temporary house, dwelling, garage, barn, storage "POD" or other building shall be placed or erected on any Unit.

Except with respect to Declarant's sales and marketing structure(s) located on a Unit or in the Common Area, no mobile home, trailer home, travel trailer, camper or recreational vehicle shall be stored, parked or otherwise allowed to be placed on a Unit as a temporary or permanent dwelling. These recreational vehicles shall be subject to the restrictions set forth in Section 10.4 of the Declaration.

Except with respect to Declarant's sales and marketing structure(s) located on a Unit or in the Common Area, in addition, no modular home or manufactured home shall be placed, erected, constructed or permitted within the Properties. "Modular home and manufactured home" shall include any prefabricated or pre-build dwelling which consists of one or more transportable sections or components and shall also be deemed to include manufactured building, manufactured home, modular building, modular home, modular construction, and prefabricated construction as defined by the North Carolina State Building Code, 1994 Edition, published by The North Carolina State Building Code Council. The placement of prefabricated and transportable sections onto a permanent foundation and the inspection of the resulting structure by the building inspector under the North Carolina State Building Code shall not exempt such structure from this prohibition. Prefabricated accessory structures, such as sheds and gazebos, must be reviewed and approved in strict accordance with Article 9 of the Declaration.

(v) Utility. Overhead utility lines, including lines for cable television, are not permitted except for temporary lines as required during construction and lines installed by or at the request of Declarant.

(vi) Standard Mailboxes. The ARB reserves the right to approve the style, design, color and location prior to any original installation or replacement of any mailbox and may require the installation of a standard mailbox which may vary from one Neighborhood to another. Application shall be made to the ARB prior to installation or replacement. By accepting a deed to a Unit, each Owner agrees that the ARB may remove any nonapproved mailbox in a reasonable manner; all costs for same shall be paid by Owner of such Unit, and all claims for damages caused by the ARB are waived.

(vii) Minimum Dwelling Size. The Design Guidelines may establish a minimum square footage of enclosed, heated and cooled living space for residential dwellings, which minimum may vary from one (1) Neighborhood to another. Upon written request of an Owner, the ARB may waive the minimum square footage requirement if, in the ARB's sole discretion, the resulting appearance of such residential dwelling will preserve and conform to the overall appearance, scheme, design, value and quality within the Properties.

(viii) Water Facilities. No individual water supply system serving any Unit shall be permitted within the Properties except for one in-ground, on-site cistern for purposes of landscape irrigation for the Unit. Water service to the Units shall be provided by Chatham County and billed directly to the Owners by Chatham County. Notwithstanding the foregoing, Declarant and/or the Association may install water wells in the Common Area, but, in all events, in accordance with all applicable governmental regulations.

(ix) Private Sewer Equipment. No sewer equipment, with the exception of Grinder Pump Stations, may be installed on any Unit without the prior approval of the ARB. All Grinder Pump Stations and/or other sewer lines and facilities (including gravity sewer lines and facilities) and other equipment used in connection with the Private Sewer System must satisfy the specifications set forth in the Design Guidelines and as set out in Section 11.12 herein, including but not limited to standards for Grinder Pump Stations as to the manufacturer and model, power, clean-out criteria, and location. ARB reserves the right to prohibit the use of any equipment and/or vendor that does not meet the minimum requirements of the Design Guidelines which may change from time to time. Sewer service will be billed directly to the Owners by the owner of the Private Sewer System.

(x) Fences and Hedges. All fences and hedges shall be installed in accordance with the Design Guidelines. The ARB must approve all fences and hedges and may require that these be at least 2 feet off of a property line and unless otherwise approved by the ARB, shall be located at least two feet inside the property line. The ARB will take into consideration in making such decisions, among other things, any drainage easements and drainage conditions affecting the Properties

(xi) Impervious Area. Impervious areas per Unit shall be limited to 11,000 square feet (except with respect to lots located within the "Village Neighborhood," which shall have impervious areas limited to 6,000 square feet). In addition, to such limitations and to

ARB control over certain exterior features, landscaping and other matters as provided herein and in the Design Guidelines, lawn area sizes, landscaping, irrigation and water supply for the same may be affected or limited from time to time to the extent of the availability of public water as regulated by Chatham County.

9.5 Construction Period. After commencement of construction, each Owner shall diligently continue construction to complete such construction in a timely manner. The initial construction of all structures must be completed within eighteen (18) months after commencement of construction, unless extended by the ARB in its sole discretion. All other construction shall be completed within the time limits established by the ARB at the time the project is approved by the ARB.

For the purposes of this Section, commencement of construction shall mean that (a) all plans for such construction have been approved by the ARB; (b) a building permit has been issued for the Unit by the appropriate jurisdiction; and (c) clearing and grading has physically commenced. Completion of a structure shall mean that a final certificate of occupancy has been issued by the appropriate jurisdiction for the Unit.

9.6 No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.7 Variance. The ARB may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) stop the ARB from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

9.8 Limitation of Liability. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Properties only, and shall not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the ARB shall bear no responsibility for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, the ARB or any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit. In all matters, the committees and their members shall be defended and indemnified by the Association as provided in Section 4.6.

9.9 Enforcement. The Declarant, any member of the ARB, or the Board, or the representatives of each shall have the right, during reasonable hours and after reasonable notice, to enter upon any Unit to inspect for the purpose of ascertaining whether any structure or improvement is in violation of this Article. Any structure, improvement or landscaping placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the ARB, Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, any authorized agent of Declarant, the ARB, or the Board shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. Entry for such purposes and in compliance with this Section shall not constitute a trespass. In addition, the Board may enforce the decisions of the Declarant and the ARB with respect to violations of this Declaration, including, without limitation, failing to complete construction on a Unit within the construction period, by any means of enforcement described in Section 4.3 and/or the Design Guidelines. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Unit and collected as a Specific Assessment.

Unless otherwise specified in writing by the committee granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Unit, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Unit and an opportunity to be heard in accordance with the By-Laws, to enter upon the Unit and remove or complete any incomplete work and to assess all costs incurred against the Unit and the Owner thereof as a Specific Assessment.

Neither the ARB or any member of the foregoing nor the Association, the Declarant, or their members, officers or directors shall be held liable to any Person for exercising the rights granted by this Article. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article or the Design Guidelines may be excluded by the ARB from the Properties, subject to the notice and hearing procedures contained in the By-Laws.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARB.

**Article 10.**  
**USE RESTRICTIONS**

10.1 General. This Article sets out certain use restrictions which must be complied with by all Owners and occupants of any Unit. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, model homes, sales offices for Builders, an information center and/or a sales office for any real estate broker retained by the Declarant to assist in the sale of property described on Exhibits "A" or "B", offices for any property manager retained by the Association, business offices for the Declarant or the

Association or related parking facilities) consistent with this Declaration and any Supplemental Declaration.

10.2 Rules and Regulations. In addition to the use restrictions set forth in this Article, the Board may, from time to time, without consent of the Members, promulgate, modify, or delete rules and regulations applicable to the Properties. Such rules shall be distributed to all Owners and occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and occupants until and unless overruled, canceled, or modified in a regular or special meeting by a Majority of the Members, and during the Development Period the written consent of the Declarant.

10.3 Residential Use. All Units may be used only for residential purposes of a single family and for ancillary business or home office uses. A business or home office shall be considered ancillary so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (b) the activity conforms to all zoning requirements for the Properties; and limits the number of employees on the premises to not more than (2) at any given time; provided, further that there is reasonable parking to accommodate such employees; (c) the activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other invitees or door-to-door solicitation of residents of the Properties; (d) the activity does not increase traffic or include frequent deliveries within the Properties; and (e) the activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

No real estate brokerage firms, real estate sales offices, or any other business directly or indirectly selling and/or managing real property or improvements shall be permitted within the Properties except with the Declarant's prior written approval which may be denied in Declarant's sole discretion. No other trade or business activity shall be conducted upon a Unit without the prior written approval of the Board. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

The leasing of a Unit shall not be considered a business or trade within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties.

10.4 Vehicles; Traffic Regulations.

(a) Automobiles and non-commercial trucks and vans shall be parked only in the garages or in the driveways, if any, serving the Units unless otherwise approved by the ARB. No automobile or non-commercial truck or van may be left upon any portion of the Properties, except in a garage, if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public highways. Such vehicle shall be considered a nuisance and may be removed from the Properties. No motorized vehicles shall be permitted on any of the Trail System or unpaved Common Area except for public safety vehicles authorized by the Board, vehicles used by Declarant, vehicles used by the Association or its employees and contractors (including, without limitation, gate personnel in monitoring the Properties) in the construction, operation and maintenance of all or a portion of the Area of Common Responsibility, and vehicles used by the owner of a Private Amenity in the construction, operation, and maintenance of all or a portion of a Private Amenity. Notwithstanding the foregoing, Owners may operate golf carts on only those portions of the Trail System so designated by Declarant or the Association. No bicycles, roller blades, "razor scooters" or skateboards shall be permitted on the unpaved portions of the Trail System or on any walking or running trails so designated by Declarant or the Association.

(b) Recreational vehicles shall be parked only in the garages, if any, serving the Units. The term "recreational vehicles," as used herein, shall include, without limitation, motor homes, mobile homes, boats, jet skis or other watercraft, trailers, other towed vehicles, motorcycles, minibikes, scooters, go-carts, golf carts, campers, buses, commercial trucks and commercial vans. Any recreational vehicle parked or stored in violation of this provision shall be considered a nuisance and may be removed from the Properties.

(c) Recreational vehicles may be operated on the streets within the Properties only by a licensed driver in accordance with North Carolina law.

(d) Golf Carts. Owners may own and operate golf carts within the private streets located within the Properties, provided, however, that the Association, in addition to any rules and regulations stated herein, may promulgate rules and regulations with respect to the same. In all events the operators of any golf carts must possess a valid driver's license from the State of North Carolina or another State, and must obey all Traffic Regulations promulgated hereunder or subsequently by the Association. All golf carts must be maintained in proper working order and shall be kept and maintained within garages. No golf carts may be used within the Properties at night unless properly equipped with headlights and taillights. Golf carts may be parked in the parking areas of the Common Area only in areas designated for golf cart parking. Owners and their families and guests assume all risk in connection with the operation of golf carts within the Properties and indemnify and hold harmless Declarant, the Association, the Owner of any Private Amenity. The operator of any golf cart shall be responsible not only for the safety of pedestrians and occupants of other vehicles within the Properties, but also for the safety of all passengers in the golf cart, including, without limitation, being responsible for proper restraint of all children and adult passengers (including requiring the use of seat belts). Declarant and the Association may require that any Owner operating, or permitting the operation of, a golf cart within the Properties obtain liability insurance in an amount of coverage determined by the Declarant or the Association naming Declarant and the Association as

additional insureds. The Association reserves the right, in the event that the Board determines that the operation of golf carts within the Properties presents a general hazard or nuisance, to ban entirely the operation of golf carts within the Properties. No ATV or other 3 or 4 wheeled motorized (whether electric or gasoline-powered ) vehicles are to be considered golf carts hereunder and may not be used within the Properties.

(f) All vehicles shall be subject to such reasonable rules and regulations as the Board of Directors may adopt, including, without limitation, the right to limit the number of vehicles permitted on each Unit.

(g) Traffic Regulations. The Board shall have the right to post motor vehicle speed limits throughout Properties, and to promulgate traffic regulations for use of the streets and regulations with respect to gates, gate houses and controlled access to and within the Properties (such regulations are collectively referred to herein as the "Traffic Regulations"). A copy of all Traffic Regulations established hereunder and any amendments thereto shall be made available to all Members, and to all those persons who use the streets, at the office of the Master Association, and the gatehouse. The Board shall also have the right to establish enforcement mechanisms for violation of the Traffic Regulations, including without limitation, the assessment of fines which shall be collected as an individual Assessment from Owners, the removal of vehicles from the Property, the suspension of Owner's rights and easements of enjoyment, as provided hereinbelow and the denial of access to any other person. Those who violate the Traffic Regulations shall be entitled to notice and a hearing before the Board, prior to the imposition of any fine, the removal of any vehicle, the deprivation of any rights or the enforcement of any other penalty for violation of the Traffic Regulations. In the event that the Association shall post or make otherwise available at the gatehouse or the clubhouse the Traffic Regulations, as these may change from time to time, all Owner's, their families, guests and other invitees, shall be deemed to have constructive knowledge of such Traffic Regulations. Personnel hired by the Association to staff the gatehouse (or independent contractors hired to do the same) may monitor compliance with the Traffic Regulations and may report violations to the Association. The Association may enforce violations of the Traffic Regulations to the extent provided in this Declaration, including, without limitation, Section 4.3 hereof. In all events, Owners, their families, guests and invitees shall treat such gate personnel with respect.

10.5 Leasing. Units may be leased for residential purposes only. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-Laws, use restrictions, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing. The Board may require notice of any lease together with such additional information deemed necessary by the Board.

10.6 Occupants Bound. All provisions of the Declaration, By-Laws, and of any rules and regulations, use restrictions or Design Guidelines governing the conduct of Owners and establishing sanctions against Owners shall also apply to all occupants even though occupants are not specifically mentioned. Fines may be levied against Owners or occupants. If a fine is first levied against an occupant and is not paid timely, the fine may then be levied against the Owner.

10.7 Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Unit, with the exception of dogs, cats, or other usual and common

household pets in reasonable number, as determined by the Board. No animals shall be kept, bred or maintained for commercial purposes. All pets shall be on a leash whenever outside a Unit and shall be kept in such a manner as to not become a nuisance by barking or other acts. The owners of the pet shall be responsible for all of the pet's actions, including without limitation, picking up and properly disposing of pet feces. Pets shall not be permitted on any golf or tennis facility, in any lake, pond, stream, waterfall or water feature, or within any Private Amenity except in compliance with conditions established by the owner of such Private Amenity. If, in the sole opinion of the Board, any animal becomes dangerous or an annoyance or nuisance in the Properties or to nearby property or destructive of wildlife, they shall be removed from the Properties. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights provided in Section 4.3. No invisible fence shall be permitted in any front or other road-side yard.

10.8 Nuisance. It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause such Unit to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

Each Owner shall maintain its Unit in a neat and orderly condition throughout initial construction of a residential dwelling and not allow trash and debris from its activities to be carried by the wind or otherwise scattered within the Properties. Storage of construction materials on the Unit shall be subject to such conditions, rules, and regulations as may be set forth in the Design Guidelines. Each Owner shall keep roadways, easements, swales, and other portions of the Properties clear of silt, construction materials and trash from its activities at all times. Trash and debris during initial construction of a residential dwelling shall be contained in standard size dumpsters or other appropriate trash receptacles and removed regularly from Units and shall not be buried or covered on the Unit. Owners shall remove trash and debris from the Unit upon reasonable notice by Declarant in preparation for special events.

No noxious or offensive activity shall be carried on within the Properties, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes or as approved by the ARB, shall be located, installed or maintained upon the exterior of any Unit unless required by law.

Owners are responsible for proper maintenance of exterior-sounding house alarms. Owners shall provide the Association with the name and phone number of its security company so that the Association may (but shall not be obligated to) contact such company in the event that a house alarm is sounding for an unreasonable period of time (in the Association's determination), and, if an Owner fails to do so, the Association may exercise self-help rights to

silence such unreasonably sounding alarm without being liable to such Owner for trespass, damage to property, or otherwise. In the event that an Owner's exterior-sounding house alarm system is a "stand alone system" (not part of a private security company's central monitoring station), the Owner shall provide to the Association the alarm code for silencing such system as well as a key or other means of entry into the house. Furthermore, in no event shall Declarant or the Association be liable to any Owner for any Person's failure to notify any party in the event a house alarm is sounding.

The reasonable and normal development, construction and sales activities conducted or permitted by the Declarant shall not be considered a nuisance or a disturbance of the quiet enjoyment of any Owner or occupant.

10.9 Streams. No streams which run across any Unit may be dammed, or the water therefrom impounded, diverted, or used for any purpose without the prior written consent of the Board, except that the Declarant shall have such rights as provided in Article 11.

10.10 Drainage and Grading. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains.

No Person shall alter the grading of any Unit without prior approval pursuant to Article 9 of this Declaration. No Person may fill in or pipe any roadside or lot-line swale, except as necessary to provide a minimum driveway crossing, nor may any Person pipe, fill in, or alter any lot line swale used to meet Chatham County regulations. The Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. However, the exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.

The Chatham County regulations applicable to the Properties provide that no more than a certain portion of each Unit shall be covered by impervious structures, including asphalt, gravel, concrete, stone, slate or similar material, not including wood decking or the water surface of swimming pools. The impervious structure requirements shall be set forth in the Design Guidelines.

10.11 Sight Distance at Intersections. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Unit within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any Unit within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

10.12 Storage of Materials, Garbage, Dumping, Etc. All garbage cans shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. There shall be no dumping of grass clippings, leaves or other debris; rubbish, trash or garbage; petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake within the Properties, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff. Due to the sensitivity of the surrounding land, Owners shall use their best efforts to avoid excessive use of fertilizers.

No lumber, metals, bulk materials, refuse, trash or other similar materials shall be kept, stored, or allowed to accumulate outside the buildings on any Unit, except during the initial construction period of the improvements to the Unit. In addition, during construction the building materials on any Unit shall be placed and kept in an orderly fashion. Any Unit on which construction is in progress shall be policed prior to each weekend and during the weekend all materials shall be neatly stacked or placed and any trash or waste materials shall be removed.

10.13 Subdivision of Unit. No Unit shall be subdivided or its boundary lines changed, nor shall two or more Units be recombined or their boundary lines changed, after a subdivision Plat including such Unit(s) has been approved and filed in the Public Records without the Declarant's written consent. Declarant, however, hereby expressly reserves the right to replat any Unit or Units which it or any Builder owns, with the written prior consent of the owner of the Unit or Units affected. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations, if any.

10.14 Guns. The discharge of firearms on the Properties is prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns, and firearms of all types. The Board may impose fines and exercise other enforcement remedies as set forth in this Declaration to enforce this restriction, but shall not be obligated to exercise self-help to prevent any such discharge.

10.15 Combustible Liquid. There shall be no storage of gasoline, propane, heating or other fuels, except for a reasonable amount of fuel that may be stored in containers appropriate for such purpose on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment and except as may be approved in writing by the ARB. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

10.16 Completion of Construction; Occupancy of Unfinished Units. No dwelling erected upon any Unit shall be occupied in any manner before commencement of construction or while in the course of construction, nor at any time prior to the dwelling being fully completed. After commencement of construction, each Owner shall diligently continue construction to complete such construction in a timely manner. With respect to construction of a residential dwelling, such construction shall be completed within eighteen (18) months from commencement.

For the purposes of this Section, commencement of construction shall mean that (i) all plans for such construction have been approved by the ARB; (ii) a building permit has been

issued for the Unit by the appropriate jurisdiction; and (iii) construction of a residential dwelling on the Unit has physically commenced beyond site preparation. Completion of a dwelling shall mean that a certificate of occupancy has been issued by the appropriate jurisdiction for the Unit.

10.17 Lakes, Ponds, Streams, Waterfalls, and Water Features. Swimming, boating and other uses of lakes, ponds, streams, waterfalls, or water features within or adjacent to the Properties shall be prohibited. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the use of lakes, ponds, streams, waterfalls, or water features within the Properties.

10.18 Irrigation Systems and Wells. Sprinkler or irrigation systems shall be installed only in accordance with the Design Guidelines. Declarant shall have the right to install sprinkler or irrigation systems or nonpotable wells within or abutting the Properties which draw upon water from lakes, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Properties and the Declarant and the owner of any golf facility shall have the right to draw water from such sources within the Properties. Owners shall have the right to install an in-ground, on-site cistern for purposes of landscape irrigation for a Unit.

10.19 Golf Facility Areas. Owners of Units adjacent to any golf facility, as well as their families, tenants, guests, invitees, and pets, shall be obligated to refrain from any actions which would distract from the playing qualities of any golf facility adjacent to the Properties. Such prohibited activities shall include, but shall not be limited to, burning materials where the smoke will cross the golf facility property, maintenance of dogs or other pets under conditions which interfere with golf facility play due to their loud barking or other actions, playing of loud radios, televisions, stereos or musical instruments, running, bicycling, skateboarding, walking or trespassing in any way on the golf facility property, picking up balls or similar interference with play. In addition, no Person shall, by virtue of this Declaration, have any right to (a) prune or otherwise alter any landscaping located on the golf facility property. This covenant is for the benefit of any golf facility adjacent to the Properties and the owner thereof and persons playing golf on said golf facility and shall be enforceable by the owner of such golf facility.

10.20 Wetlands. All areas designated on any recorded plat as "wetlands" or as a "conservation easement area" shall be left in a natural state, and any proposed alteration of the wetlands or conservation easement area must be in accordance with any restrictions or covenants recorded against such property and be approved by the Army Corps of Engineers (COE) and the North Carolina Department of Environmental and Natural Resources, as applicable. Notwithstanding anything contained in this Section, the Declarant, the Association, and the successors, assigns, affiliates and designees of each may conduct such activities as have been or may be permitted by the U.S. Army Corps of Engineers or any successor thereof responsible for the regulation of wetlands or conservation easement area.

10.21 Wildlife. No Owner, occupant, tenant, guest or invitee of an Owner or occupant shall feed any wildlife located on the Properties other than by typical residential birdfeeders, provided that such birdfeeders shall be reasonable in number and shall be kept in such a manner as to not unreasonably attract rats, deer, raccoon, bears or other wildlife, and so as not to create an eyesore or other nuisance or health or safety hazard.

10.22 Flags. An Owner may display up to one (1) flag, including decorative flags or the flag of the United States of America or the State of North Carolina, on a house-mounted flag stick, but in no event shall any such flag be larger than 3 feet by 5 feet. Declarant and /or the Association may fly any number of flags of any size in the Common Area.

**Article 11.**  
**EASEMENTS**

Declarant reserves, creates, establishes, promulgates, and declares the non-exclusive, perpetual easements set forth herein for the enjoyment of the Declarant, the Association, the Members, the Owners, and the owners of any Private Amenities, and their successors-in-title, to HAVE AND TO HOLD such easements forever, as follows:

11.1 Easements of Encroachment and Drainage. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between adjacent Units, between each Unit and any adjacent Common Area, and between each Unit and any adjacent Private Amenity due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement. There shall also exist a five (5) foot wide reciprocal easement for drainage between adjacent Units and between each Unit and any adjacent Common Area.

11.2 Easements for Utilities, Etc.

(a) There are hereby reserved to the Declarant during the Development Period, the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing cable television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways and trails; lakes, ponds, wetlands, irrigation, and drainage systems; street lights and signage; and all utilities, including, but not limited to, the Private Sewer System, water, sewer, telephone, gas, and electricity, and utility meters; and an easement for access of vehicular and pedestrian traffic over, across, and through the Properties, as necessary, to exercise the easements described above. Declarant also reserves the right to grant conservation easements and to make fee interest conveyances of portions of the Properties in connection with certain preservation and conservation undertakings by Declarant which, in Declarant's sole discretion, enhance the environmental and ecological features and overall quality of the Properties.

Declarant specifically grants to the local water supplier, sewer service provider, electric company, telephone company, cable company, and natural gas supplier the easements set forth

herein across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(b) There is hereby reserved to the Declarant during the Development Period, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibits "A" or "B".

(c) Any damage to a Unit resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit, and except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

(d) Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (i) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

11.3 Easement for Slope Control, Drainage and Waterway Maintenance. The Declarant, for itself and the Association, and their respective representatives, successors and assigns, contractors and agents, hereby establishes and reserves a permanent and perpetual non-exclusive easement appurtenant over, across, under, through and upon each Unit for the purposes of:

(a) controlling soil erosion, including grading and planting with vegetation any areas of any Unit which are or may be subject to soil erosion;

(b) drainage of natural or man-made water flow and water areas from any portion of the Properties or any Private Amenity;

(c) changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Unit or Common Area;

(d) dredging, enlarging, reducing or maintaining any water areas or waterways within the Properties; and

(e) installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of the Properties or any Private Amenity.

11.4 Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Additional Property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the

Common Area for construction of roads, for the posting of signs, and for connecting and installing utilities serving the Additional Property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of the Additional Property.

11.5 Easement for Entry. The Association shall have the right, but not the obligation, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Unit, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents, employees and managers of the Association, any member of its Board or committees, and its officers, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Unit shall be only during reasonable hours and after notice to and permission from the Owner. This easement includes the right to enter any Unit to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities. Any entry by the Association or its authorized agents, employees or managers of the Association, any member of its Board or committees, or its officers onto a Unit for the purposes specified herein shall not constitute a trespass.

11.6 Easements for Maintenance and Enforcement. Authorized agents of the Association shall have the right, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Unit to (a) perform its maintenance responsibilities under Article 5, and (b) make inspections to ensure compliance with the Governing Documents. Except in emergencies, entry onto a Unit shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense. Entry under this Section shall not constitute a trespass.

The Association also may enter a Unit to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Governing Documents. All costs incurred, including reasonable attorneys fees, may be assessed against the violator as a Specific Assessment.

11.7 Easements for Lake, Pond, Waterfall and Water Feature Maintenance and Flood Water. The Declarant reserves for itself and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon the lakes, ponds, streams, waterfalls and/or water features and wetlands located within the Area of Common Responsibility to (a) install, keep, maintain, and replace pumps and irrigation systems in order to provide water for the irrigation of any of the Area of Common Responsibility or any Private Amenity; (b) construct, maintain, and repair any bulkhead, wall, dam, or other structure retaining water; and (c) remove trash and other debris therefrom and fulfill their maintenance responsibilities as provided in this Declaration. Declarant and its designees shall have an access easement over and across any of the Properties abutting or containing any portion of any pond, stream, waterfalls and/or water features or wetland to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves for itself and its successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 20 feet of ponds, streams and wetlands in order to (a) temporarily flood and back water upon and maintain water over such portions of the Properties; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the ponds, streams, and wetlands within the Area of Common Responsibility; (c) maintain and landscape the slopes and banks pertaining to such ponds, streams, and wetlands; and (d) enter upon and across such portions of the Properties for the purpose of exercising its rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural disasters.

Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (i) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

11.8 Lateral Support. Every portion of the Common Area, every Unit, and any improvement which contributes to the lateral support of another portion of the Common Area or of another Unit shall be burdened with an easement for lateral support, and each shall also have the right to lateral support which shall be appurtenant to and pass with title to such property.

11.9 Easements for Private Amenities.

(a) Every Unit and the Common Area and the common property of any Neighborhood Association adjacent to any Private Amenity are burdened with an easement permitting golf balls and tennis balls unintentionally to come upon such Common Area, Units or common property of a Neighborhood and for golfers and tennis players at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood, or the exterior portions of a Unit to retrieve errant golf balls and tennis balls; provided however, if any Unit is fenced or walled, the golfer or tennis player shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers or tennis players of liability for damage caused by errant golf balls and tennis balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from any activity relating to the Private Amenity, including but not limited to, any errant golf balls, tennis balls, or the exercise of this easement: the Declarant, or any successor Declarant; the Association or its Members (in their capacity as such); the owner(s) of the Private Amenities or their successors, successors-in-title, or assigns; any Builder or contractor (in their capacities as such); the golf facility and tennis court designer or builder; or any officer or director, member, manager or partner of any of the foregoing. Nothing in this section shall obligate Declarant to create or construct any golf or tennis facilities on the Property.

(b) The owner(s) of the Private Amenities, their respective successors and assigns, shall have a perpetual, exclusive easement of access over the Properties for the purpose

of retrieving golf balls from bodies of water within the Common Area and any Unit lying reasonably within range of golf balls hit from any golf facility within such Private Amenity.

(c) The owner of any Private Amenity within or adjacent to any portion of the Properties, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Area reasonably necessary to the operation, maintenance, repair and replacement of its Private Amenity.

(d) Declarant hereby reserves for itself, its successors and assigns and the Owner's of any Private Amenities over, across and upon each and every Unit, a twenty (20) foot easement as measured from the rear boundary line of the Unit that separates such Unit from any golf facility or Meadows area to a line running parallel thereto being located twenty (20) feet into the interior of such Unit and, for Units whose sideline is adjacent to any golf facility or Meadows area, a ten (10) foot easement as measured from the side boundary line of the Unit that separates such Unit from any golf facility or Meadows area to a line running parallel thereto being located ten (10) feet into the interior of such Unit. Such easement may be used for the purposes of operation and maintenance of any golf facility or Meadows area, including, without limitation, maintenance of equipment that is part of the Private Sewer System and the overspray associated therewith. By way of example and not limitation, such easement shall be for the purpose of authorizing entry onto such portions of the Unit to maintain or landscape the area encumbered by such easement. Such maintenance and landscaping shall include planting of grass, irrigation, fertilizer application, mowing and edging, and removal of any underbrush, trash, debris and trees of less than two (2) inches in diameter.

(e) There is hereby established for the benefit of the Private Amenities and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all roadways located within the Properties reasonably necessary to travel between the entrance to the Properties and the Private Amenities and over those portions of the Properties (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Private Amenities. Without limiting the generality of the foregoing, members of the Private Amenities and guests and invitees of the Private Amenities shall have the right to park their vehicles in the parking areas located within the Common Area near the clubhouse and swimming pool facilities, if any, that may be located thereon, at reasonable times.

(f) Any portion of the Properties immediately adjacent to the Private Amenities are hereby burdened with a non-exclusive easement in favor of the adjacent Private Amenities for over spray of water from the irrigation system serving the Private Amenities. Under no circumstances shall the Association or the owner(s) of the Private Amenities be held liable for any damage or injury resulting from such over spray or the exercise of this easement.

(g) The Declarant hereby reserves for itself, its successors and assigns, and may assign to the owner(s) of the Private Amenities, an easement and all rights to draw water from the lakes and ponds within or adjacent to the Properties for purposes of irrigation of the Private Amenities and for access to and the right to enter upon the lakes and ponds within or adjacent to the Properties, if any, for installation and maintenance of any irrigation systems.

11.10 Easement for Special Events. Declarant hereby reserves for itself, its successors, assigns and designees a perpetual, non-exclusive easement over the Common Area for the purpose of conducting educational, cultural, entertainment, or sporting events, and other activities of general community interest at such locations and times as Declarant, in its sole discretion, deems appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Unit, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the occupants of its Unit to take no action, legal or otherwise, which would interfere with the exercise of such easement or to recover damages for or as the result of any such activities.

11.11 Rights to Stormwater Runoff, Wastewater and Water Reclamation. Declarant hereby reserves for itself and its designees, including but not limited to the owner of any Private Amenity, all rights to ground water, surface water, storm water runoff, and wastewater located or produced within the Properties, and each Owner agrees, by acceptance of a deed to a Unit, that Declarant shall retain all such rights. Such right shall include an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff and wastewater.

11.12 Grinder Pump Station Easement. Declarant hereby reserves for itself and its designees, including but not limited to the owner and/or operator of the Private Sewer System, an easement over and upon each Unit for installation and maintenance of a Grinder Pump Station, as follows:

To the extent a Unit, by its location, is required to have a grinder pump, each such Unit shall have a standardized Grinder Pump Station, the design of which must comply with the Design Guidelines and be approved by the owner and/or operator of the Private Sewer System and the North Carolina Department of Environment and Natural Resources Division of Water Quality. The owner and/or operator of the Private Sewer System shall arrange for the installation of the Grinder Pump Station to serve each Unit and shall coordinate the installation thereof. Each Owner shall be required to prepay the outside contractor (specified by the owner and/or operator of the Private Sewer System) installing the Grinder Pump Station the entire cost of the installation of the Grinder Pump Station, including any applicable inspection fees. None of the fees for the installation of the Grinder Pump Stations shall be paid to the owner and/or operator of the Private Sewer System. Each Grinder Pump Station shall be owned by the owner of the Private Sewer System and the owner of the Private Sewer System shall be responsible for the maintenance, repair and replacement of such Grinder Pump Station. The owner and/or operator of the Private Sewer System may apply to the Utilities Commission for approval of a surcharge to recover the cost of maintaining, repair and replacing the Grinder Pump Stations. Additionally, should any person place into the Grinder Pump Station any materials or objects that interfere with the operation of the Grinder Pump Station, the owner and/or operator of the Private Sewer System may charge and collect from the Owner the actual cost of the repairs and/or replacement of the Grinder Pump Station.

Each Grinder Pump Station will require a perpetual easement, and such easement is hereby declared encumbering each Unit, with a total width of ten (10) feet centered on the service lateral connecting to the main wastewater force main, and a fifteen (15) foot diameter

circle centered at the center of the Grinder Pump Station. These perpetual easements shall be in favor of Declarant, the Association, and/or the owner or the Private Sewer System, and their designees and contractors, as applicable for ingress, egress, regress, and access to install, operate, repair, maintain and replace the service line and the Grinder Pump Station, and Declarant shall in each deed to a purchaser of a Unit reserve and convey to the owner of the Private Sewer System these perpetual easements for the Grinder Pump Station and service lines.

After the completed initial installation of the Grinder Pump Station, the owner of the Private Sewer System shall be responsible for operating, maintaining, repairing and replacing the components of the Grinder Pump Station and service lines. The Owner of the Unit shall be responsible for that portion of the collection line from the home or building to the Grinder Pump Station. The electric service for the Grinder Pump Station shall be provided by each Owner as part of his household electric service. Neither the owner of the Private Sewer System, nor Declarant shall have any responsibility or liability whatsoever should a portable generator during a power outage not be connected to the Grinder Pump Station to keep it from overflowing or backing up.

11.13 Non-Dedicated Streets. All streets and roads within the Properties shall remain private and shall be a part of the Common Area, together with any gates, gate houses, and other access control facilities. Declarant and the Association reserve the right to install a gate house, gates, and other controlled access facilities and to promulgate rules and regulations with respect thereto. All such non-dedicated streets and facilities constructed within the Subdivision are reserved as easements of public access for the common use of Owners and their families, guests and invitees, by commercial vehicles authorized to make pick-ups and deliveries, by public and private utilities' personnel, trucks and equipment, by postal authorities and mail carriers, by emergency personnel and vehicles such as police, fire and ambulance, and by such other persons or classes of persons authorized by the Board, as means of ingress or egress, and for such other uses as may be authorized from time to time by said Board. Such non-dedicated streets may also include underground utility lines, mains, sewers or other facilities to transmit and carry sanitary sewerage and storm water drainage. Except as provided by this Declaration, no acts shall be taken or things done by an Owner or the Association which are inconsistent with the reservation and grant of use and enjoyment hereinabove provided.

11.14 Parker's Creek. The Association shall take title to the Parker's Creek Conservation Area described on Exhibit A and shall undertake preservation and maintenance of such conservation area as required by the terms of the deed conveying the same and as may otherwise be required by applicable governmental authorities. The conservation area shall be a part of the Common Area for purposes of allowing the Association to use assessments to preserve and maintain the conservation area, as necessary, provided, however, the conservation area is hereby encumbered by a negative easement and restriction prohibiting any entry upon or disturbance of such area by any Person, except to the extent of an easement for a pedestrian and vehicular crossing through the Conservation Area for the Trail System, as may be reserved by Declarant in the special warranty deed into the Association concerning the Parker's Creek Conservation Area and otherwise subsequently recorded in the Plats or by separate easement instrument.

11.15 Liability for Use of Easements. No Owner shall have a claim or cause of action against the Declarant, its successors or assigns, including without limitation the owner(s) of any Private Amenities, arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision plat for the Properties, except in cases of willful or wanton misconduct.

11.16 Easements and Setbacks Per Plats. The Properties, including the Units and the Common Area shall, further, be encumbered by such easements, restrictions, setbacks and other matters as are set out in, or shown on, the Plats.

11.17 Communication Easement. In order to make available to Owners the Infrastructure and the Telecommunication Services, as defined in Section 15.14 hereof, Declarant hereby reserves for itself and its successors and assigns the right to grant an exclusive easement over the Properties, inclusive of Common Areas now existing or hereafter created (the "Communication Easement") which will be made available as necessary to service providers designated by IFP for the provision of Telecommunication Services for the Owners. Declarant's reservation and rights under Section 11.2(a) hereof with respect to cable television systems, master television antenna systems and other devices for sending or receiving data and/or other electronic signals security, and similar systems are subject to the rights of the grantee under the Communication Easement and the rights to IFP in Section 15.14 of this Declaration. Subject to the rights of the grantee under the Communication Easement and the rights granted to IFP in Section 15.14 of this Declaration, Declarant reserves for itself and its successors and assigns an exclusive easement for installation of Infrastructure and provision of Telecommunication Services within the rights-of-way and easement areas depicted upon any plat or any portion of the Properties or within any easement reserved by this Declaration. The Communication Easement shall grant, among things, an exclusive right to IFP to arrange for the provision of Telecommunication Services to the Property. Among other things, the Communication Easement shall grant a specific easement for the installation, operation, and maintenance of Infrastructure and the provision of Telecommunication Services within an area that runs within five (5) feet of the perimeter boundary of the Properties as well as a specific easement for a building (or within a building) for the location of certain telecommunications equipment.

#### Article 12.

#### MORTGAGE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

12.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

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(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 Days, or any other violation of the Declaration or By-Laws relating to such Unit or the Owner or Occupant which is not cured within 60 Days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders pursuant to Federal Home Loan Mortgage Corporation requirements.

12.2 No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

12.3 Notice to 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 Unit.

12.4 Failure of Mortgagee to Respond. Any Mortgagee who receives 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 Mortgagee within 30 Days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

12.5 Construction of Article 12. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or North Carolina law for any of the acts set out in this Article.

**Article 13.**

**DECLARANT'S RIGHTS**

13.1 Transfer or Assignment. Any or all of the special rights and obligations of the Declarant set forth in the Governing Documents may be transferred or assigned in whole or in part to the Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. Upon any such transfer, the Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

13.2 Development and Sales. The Declarant real estate brokers and agents authorized by Declarant, and Builders authorized by Declarant may maintain and carry on the Properties such activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Units, such as sales activities, tournaments, charitable events, and promotional events, and restrict Members from using the Common Area during such activities. Such activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Members' use and enjoyment of the Common Area. In the event that any such activity necessitates exclusion of Owners from Common Areas, such activities shall not exceed seven (7) consecutive Days. The Declarant and authorized Builders shall have easements over the Properties for access, ingress and conducting such activities. Notwithstanding the foregoing, the Declarant shall have the right to construct and operate a sales office on a portion of the Common Area in such location and for such duration as the Declarant may determine.

In addition, the Declarant, real estate brokers and agents authorized by Declarant, and Builders authorized by Declarant may establish within the Properties, including any clubhouse, such facilities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Units, including, but not limited to, business offices, signs, model homes, tents, sales offices, sales centers and related parking facilities. During the Development Period, Owners may be excluded from use of all or a portion of such facilities in the Declarant's sole discretion. The Declarant and authorized Builders shall have easements over the Properties for access, ingress, and egress and use of such facilities.

Declarant may, itself, utilize, and may permit the use by others, of any facilities situated on, and/or that are part of, the Common Area including, without limitation, the streets, Trail System, clubhouse, and swimming pool by Persons other than Owners without the payment of any fees.

13.3 Improvements to Common Areas. The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

13.4 Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, declaration of condominium, easements, or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records. No such instrument recorded by any Person, other than the Declarant pursuant to Section 7.4, may conflict with the Declaration, By-Laws or Articles.

13.5 Right of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of the Declarant or Builders under the Governing Documents, or interfere with development of, construction on, or marketing of any portion of the

Properties, or diminish the level of services being provided by the Association. This right to disapprove is in addition to, and not in lieu of, any right to approve or disapprove specific actions of the Association, the Board or any committee as may be granted to the Class "B" Member or the Declarant in the Governing Documents.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Class "B" Member has registered with the secretary of the Association, which notice complies with the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting. The Class "B" Member may waive its right to receive notice in the same manner as provided in the By-Laws.

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Class "B" Member, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee.

(c) No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met and the time period set forth in subsection (d) below has expired.

(d) The Class "B" Member, acting through any Officer or Director, agent or authorized representative, may exercise its right to disapprove at any time within ten (10) days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) days following receipt of written notice of the proposed action. No action, policy or program shall be effective or implemented if the Class "B" Member exercises its right to disapprove. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

13.6 Amendments. Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any use restrictions and rules or Design Guidelines made after termination of the Class "B" Control Period shall be effective without prior notice to and the written consent of the Declarant, during the Development Period. This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) twenty-five (25) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

**Article 14.**  
**PRIVATE AMENITIES**

14.1 General. Private Amenities shall not be a portion of the Common Area, and neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Private Amenity. Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the respective owners of the Private Amenities. The owners of the Private Amenities shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities, including, without limitation, eligibility for and duration of use rights, categories of use, extent of use privileges, and number of users, and to require the payment of a purchase price, membership contribution, initiation fee, membership deposit, dues, use charges, and other charges for use privileges and to change, eliminate, or lease operation of any or all facilities; and to reserve use rights and to terminate use rights altogether, subject to the terms of any written agreements. Nothing in this Article 14 shall obligate Declarant or any third party to create or operate any Private Amenities.

14.2 Conveyance of Private Amenities. All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by the Declarant, the Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of any Private Amenity, and no purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of the Private Amenity. Further, the ownership or operation of the Private Amenities may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations of any Private Amenity by a Person other than the current owner or operator; or (b) the conveyance of any Private Amenity to one or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association, any Neighborhood Association, or any Owner shall be required to effectuate any change in ownership or operation of any Private Amenity, for or without consideration and subject to or free of any mortgage, covenant, lien or other encumbrance.

14.3 View Impairment. Neither the Declarant, the Association, nor the owner of any Private Amenity, guarantees or represents that any view over and across any Private Amenity, the Common Area or any public facilities from Units will be preserved without impairment. The owners of such property, shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping or to install improvements or barriers (both natural and artificial) to the Private Amenities, the Common Area or the public facilities from time to time. In addition, the owner of any Private Amenity which includes a golf facility may, in its sole and absolute discretion, change the location, configuration, size and elevation of the trees, bunkers, fairways and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. The ARB will take into consideration view impairment factors in its approval decisions. One Owner shall not unreasonably obstruct or impair the view of another Owner, and the Association shall have the right to enforce this covenant (including, without limitation, pursuant to Section 4.3 of this Declaration), and all Owners agree to cooperate reasonably with the Association and with other Owners to avoid unreasonable interference with, or the impairment of, the views of other Owners.

14.4 Cost Sharing Agreements. The Association may enter into a Cost Sharing Agreement with any Private Amenity obligating the Private Amenity or the Association to contribute funds for, among other things, shared property or services and/or a higher level of Common Area maintenance.

14.5 Architectural Control. Neither the Association, nor any committee thereof, shall approve or permit any construction, addition, alteration, change, or installation on or to any portion of the Properties which is contiguous to or within one hundred (100) feet of, any Private Amenity without giving the owner of such Private Amenity at least fifteen (15) Days prior written notice of its intent to approve or permit the same together with copies of the request and all other documents and information finally submitted in such regard. The owner of such Private Amenity shall then have fifteen (15) Days to approve or disapprove the proposal in writing delivered to the appropriate committee or Association, stating in detail the reasons for any disapproval. The failure of the owner of such Private Amenity to respond to the notice within the fifteen (15) Day period shall constitute a waiver of the owner of such Private Amenity's right to object to the matter. If in the reasonable opinion of the owner of the Private Amenity whether by restriction of view, hazards to person or otherwise, the requesting party shall resubmit to the ARB the proposed construction or modification so as to take into account the objection of the Private Amenity, and the review and approval process set forth in this Section shall apply to the resubmitted plans and specifications. This Section shall also apply to any work on the Common Area contiguous to the Private Amenity.

14.6 Use Restrictions. Upon request of the owner of any Private Amenity, the Association shall enforce its use restrictions and rules against any Owner or occupant violating such regulations within such Private Amenity, including but not limited to the exercise of the Association's self-help rights for violation of sign and pet restrictions.

14.7 Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Private Amenity, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefiting any Private Amenity, may be made without the written approval of the owner(s) of the affected Private Amenity. The foregoing shall not apply, however, to amendments made by the Declarant.

14.8 Jurisdiction and Cooperation. It is Declarant's intention that the Association and the Private Amenities shall cooperate to the maximum extent possible in the operation of the Properties and the Private Amenities. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Design Guidelines. The Association shall have no power to promulgate rules or regulations affecting activities on or use of the Private Amenities without the prior written consent of the owners of the Private Amenities affected thereby.

**Article 15.**  
**GENERAL PROVISIONS**

15.1 Duration.

(a) Unless terminated as provided in Section 15.1(b), this Declaration shall run with the land and shall be binding on all parties and Persons claiming under them for a period of 20 years from the date this Declaration is recorded. This Declaration shall automatically be extended at the expiration of such period for successive periods of 10 years each, unless terminated as provided herein. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

(b) Unless otherwise provided by North Carolina law, in which case such law shall control, this Declaration may not be terminated within 20 years of the date of recording without the consent of all Owners. Thereafter, it may be terminated only by an instrument signed by Owners of at least 75% of the total Units within the Properties and by the Declarant, if the Declarant owns any portion of the Properties, which instrument is recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

#### 15.2 Amendment.

(a) By Declarant. Until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing. In addition, so long as the Declarant owns property which is subject to this Declaration or which may be unilaterally subjected to the Declaration by the Declarant, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(b) By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 67% of the total Class "A" votes in the Association, including 67% of the Class "A" votes held by Members other than the Declarant, and the written consent of the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant. Except as provided in this Declaration, no Class "C" Member shall be entitled to vote on any amendment to the Declaration.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date. Any amendment to the Declaration shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within one year of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee of such right or privilege.

(d) If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

15.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

15.4 Dispute Resolution. It is the intent of the Association and the Declarant to encourage the amicable resolution of disputes involving the Properties and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the Association, the Declarant and each Owner covenants and agrees that it shall attempt to resolve all claims, grievances or disputes involving the Properties, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the By-Laws, the Association rules, or the Articles through alternative dispute resolution methods, such as mediation and arbitration. To foster the amicable resolution of disputes, the Board may adopt alternative dispute resolution procedures.

Participation in alternative dispute resolution procedures shall be voluntary and confidential. Should either party conclude that such discussions have become unproductive or unwarranted, then the parties may proceed with litigation.

15.5 Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of Members representing 75% of the total Class "A" votes in the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article 8; (c) proceedings involving challenges to ad valorem taxation; (d) counter-claims brought by the Association in proceedings instituted against it or (e) actions brought by the Association against any contractor, vendor, or supplier of goods and services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

15.6 Non-Merger. Notwithstanding the fact that Declarant is the current owner of the Properties, it is the express intention of Declarant that the easements established in the Declaration for the benefit of the Properties and Owners shall not merge into the fee simple estate of individual lots conveyed by Declarant or its successor, but that the estates of the Declarant and individual lot owners shall remain as separate and distinct estates. Any conveyance of all or a portion of the Properties shall be subject to the terms and provisions of this Declaration, regardless of whether the instrument of conveyance refers to this Declaration.

15.7 Grants. The parties hereby declare that this Declaration, and the easements created herein shall be and constitute covenants running with the fee simple estate of the Properties. The grants and reservations of easements in this Declaration are independent of any covenants and contractual agreements undertaken by the parties in this Declaration and a breach by either party of any such covenants or contractual agreements shall not cause or result in a forfeiture or reversion of the easements granted in this Declaration.

15.8 Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional covenants, restrictions, and declarations applicable to any Neighborhood, and the Association may, but shall not be required to, enforce the covenants, conditions, and provisions applicable to any Neighborhood; provided however, in the event of a conflict between or among this Declaration and such covenants or restrictions, and/or the provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, this Declaration, the By-Laws, Articles, and use restrictions and rules of the Association shall prevail over those of any Neighborhood. In the event of a conflict between this Declaration and the Act, the Act shall prevail. The foregoing priorities shall apply, but not be limited to, the lien for assessments created in favor of the Association. Nothing in this Section shall preclude any Supplemental Declaration or other recorded declaration, covenants and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

15.9 Use of the Words "The Legacy at Jordan Lake". No Person shall use the words "The Legacy at Jordan Lake" or any logo of The Legacy at Jordan Lake or any derivative in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the term "The Legacy at Jordan Lake" in printed or promotional matter where such term is used solely to specify that particular property is located within The Legacy at Jordan Lake and the Association and any other community association located on The Legacy at Jordan Lake shall be entitled to use the words "The Legacy at Jordan Lake" in its name.

15.10 Compliance. Every Owner and occupant of any Unit shall comply with the Governing Documents. Failure to comply shall be grounds for an action by the Association or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3.

15.11 Right of First Refusal

(a) Each Owner acknowledges, and the deed of conveyance to each Owner may provide, that the Declarant shall retain a right of first refusal for any Unit within the Properties on the terms and conditions set forth below. This Section shall not restrict an Owner's right to enter into a binding contract for the sale of a Unit, provided that, for so long as this right of first refusal exists, the contract provides that the Owner may not convey a Unit to any third party without giving the Declarant the right of first refusal on the terms and conditions set forth below. This right of first refusal shall not apply to any transfer or conveyance in connection with a Mortgage foreclosure or deed in lieu of foreclosure except where the intent of the parties is to circumvent this right of first refusal. The failure by Declarant to exercise its right of first refusal with respect to a Unit shall not be deemed a waiver of such right with respect to any other transfer or conveyance.

(b) If any Owner desires to convey any Unit to a third party, the Owner proposing to transfer said Unit shall deliver to Declarant within 7 Days of its execution a copy of the executed, binding real estate sales contract between the Owner and the prospective purchaser. The real estate sales contract shall provide that Declarant shall have 30 Days after actual receipt of the executed binding real estate contract upon which to exercise its right of first refusal for the Unit on the same terms and conditions as the real estate sales contract between the Owner and prospective purchaser. Declarant shall provide written notice of the exercise of the right of first refusal to the transferor. If the Declarant fails to exercise such right as provided herein, the right of first refusal shall be waived and extinguished. Upon request and receipt of a release in form and content satisfactory to Declarant, Declarant shall execute a release of such right of first refusal in recordable form if the Declarant does not intend to exercise such right.

(c) If Declarant exercises its right of first refusal, the owner of the Unit shall convey the Unit by general warranty deed (subject to such exceptions and easements of record as are standard and customary) to the Declarant within 30 Days after the date of receipt of the Declarant's notice the right of first refusal has been exercised. The remaining terms of the real estate sales contract shall remain in full force and effect.

(d) If Declarant does not exercise its right to repurchase, the Owner of the Unit shall give the Board written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require not later than the date of closing. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

(e) The right of first refusal set forth in this Section shall automatically terminate as to each Unit upon the issuance of a certificate of occupancy by the County of Chatham, North Carolina building department for a residential dwelling on such Unit. Upon issuance of a certificate of occupancy and receipt from any Owner of such Unit by Declarant of a written request and a release in form and content satisfactory to Declarant, Declarant shall execute a release of such right of first refusal as to such Unit in recordable form; however, issuance of such a release shall not be necessary to terminate this right of first refusal.

This right of first refusal shall automatically terminate as to all Units seven (7) years from the date the deed into the Owner of the Unit is recorded in the Public Records, or when, in its sole discretion, the Declarant so determines and declares in a recorded instrument.

**15.12 Declarant's Option to Purchase--Construction Period.** In addition to Declarant's right of first refusal, above, each Owner acknowledges that the Declarant shall retain a right and option to purchase any Unit in the event that an Owner has failed to commence construction of single-family improvements on a Unit within 5 years following the date of the deed of conveyance for such Unit into such Owner, and the deed of conveyance to each Owner may also so provide. Declarant shall have the right to repurchase the Unit from such Owner at a purchase price equal to the original purchase price paid to the Declarant by the Owner. For purposes of this section, "commencement of construction" shall be as defined in Section 9.5 hereof. However, and notwithstanding that an Owner shall have commenced construction within the 5 years provided above, the Owner must, nevertheless, diligently prosecute such construction to completion within an eighteen (18) month period thereafter, as provided in Section 9.5 hereof. Declarant shall have no obligation hereunder to repurchase any Unit. In the event an Owner shall have conveyed a Unit to a third party prior to the expiration of such 5-year period and the Declarant has elected not to exercise its right of first refusal pursuant to Section 15.11, above, such third party shall take title to the Unit subject to the terms of this Section 15.12 and subject to the 5-year construction period having commenced to run from the date of the original Owner's deed and not from the date of the subsequent deed into such third party Owner. Notwithstanding the foregoing, the 5-year period hereunder shall be subject to extension, at the election of the Declarant, by reason of acts of God, force majeure and other matters outside the control of an Owner. The option to purchase set forth in this Section 15.12 shall automatically terminate as to each Unit upon the commencement of construction upon such Unit.

**15.13 Exempted Units.** Notwithstanding anything contained in Sections 15.11, 15.12 or any other provisions of this Declaration, Declarant reserves the right to exempt up to 12 Units (to be designated by Declarant in its discretion) from the right of first refusal and option to purchase provisions of Sections 15.11 and 15.12, above and from any obligation to use Declarant's Builder's Team.

**15.14 Telecommunication Services.** Declarant has entered into an Agreement with an Infrastructure Facilities Provider ("IFP") for installation within the Properties of facilities and equipment (the "Infrastructure") to provide cable television, high speed internet/intranet, local and long distance telephone services, security monitoring services and/or other telecommunication services. (the "Telecommunication Services") and the arrangement for the provision of Telecommunication Services to Owners and the Association pursuant to bulk service agreements ("Bulk Service Agreements") with one or more service providers designated by IFP. Declarant expressly reserves the right to enter into exclusive or non-exclusive agreements for Infrastructure and Telecommunication Services on such terms, and with affiliated or non-affiliated third-parties, as may be determined by Declarant in its sole discretion.

Owner understands and acknowledges that any such Bulk Service Agreements may require mandatory participation by all Owners and may result in charges to the Association which are included in the assessments levied by the Association (the "Telecommunication Assessment") as well as separate charges to the Owners for installation and activation,

equipment rental, upgrades and additional services, all of which may be billed directly by IFP or the service providers to the Owners and not as part of the Telecommunication Assessment. Such charges may also be billed by the Association as part of an Owner's Telecommunications Assessment. By taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all of Owners to pay the Telecommunication Assessment.

The Association acknowledges the Communication Easement and its applicability to the Properties, inclusive of the Common Areas now existing and which may be established from time to time. The Association shall also be responsible for fulfilling its obligations under each Bulk Service Agreement and any agreement between the Association and IFP with respect to the provision of Infrastructure and the arrangement for the provision of Telecommunication Services to the Properties. The Association and each Owner acknowledge that provision of Telecommunication Services pursuant to Bulk Service Agreements shall be subject to usage policies and minimum equipment requirements of the service providers with respect to the services provided and may be subject to regulation by applicable federal, state, and local laws. The Declarant shall be entitled to enter into arrangements with IFP that require the Association to include into its budgets and to levy and collect in accordance with this Declaration the Telecommunication Assessment. The Association shall be obligated pursuant to certain Bulk Service Agreements to charge and collect from each Owner and to include as part of the Telecommunication Assessment any and all expenses incurred in connection with the Bulk Services Agreements. The Association and each Owner acknowledge that in the event IFP or a service provider supplies Declarant with two video channels (together with the rights to related equipment and transmission capabilities), Declarant may transfer only one such channel to the Association and may continue to reserve for itself and its business purposes the other channel (together with the rights to related equipment and transmission capabilities) notwithstanding that the Class-B Control Period shall have ended. EACH OWNER (BY VIRTUE OF ACCEPTANCE OF TITLE TO A LOT) AGREES THAT THE TELECOMMUNICATION SERVICES MAY NOT BE AVAILABLE TO OWNER AT CLOSING OF TITLE TO THE LOT OR FOR SOME TIME THEREAFTER. NOTWITHSTANDING THIS FACT, EACH OWNER AGREES THAT WHEN SUCH TELECOMMUNICATION SERVICES BECOME AVAILABLE, SUCH OWNER WILL BE RESPONSIBLE FOR THE PAYMENT OF COSTS IN CONNECTION WITH SUCH TELECOMMUNICATION SERVICES. IN ADDITION, SHOULD ANY OWNER DECIDE TO ENTER INTO ANY OTHER AGREEMENT WITH SERVICES, PROVIDERS ON A NON-BULK SERVICES ARRANGEMENT, SUCH OWNER AGREES TO PAY FOR ALL COSTS IN CONNECTION WITH SUCH SERVICES INCLUDING CANCELLATION FEES AND DISCONNECTION CHARGES. THIS PROVISION SHALL BE A COVENANT RUNNING WITH THE LAND FOR THE BENEFIT OF THE DECLARANT AND THE ASSOCIATION.

15.15 Exhibits. Exhibits "A", "B" and "C" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of this Declaration. All other exhibits are attached for informational purposes and may be amended as provided therein.

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BOOK 1252 PAGE 597

[THE FOLLOWING PAGE IS THE SIGNATURE PAGE]

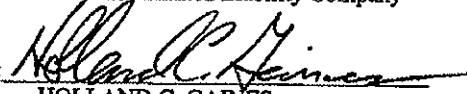
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BOOK 1252 PAGE 598

IN WITNESS WHEREOF, the undersigned Declarant has executed this  
Declaration this 20<sup>th</sup> day of April, 2006.

THE LEGACY AT JORDAN LAKE, LLC  
A North Carolina Limited Liability Company

By:



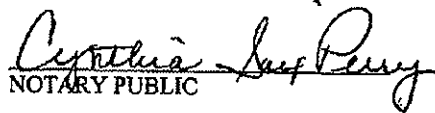
HOLLAND C. GAINES  
Manager

STATE OF NORTH CAROLINA

COUNTY OF CHATHAM

I, Cynthia Sax Perry, a Notary Public for the County and State aforesaid, certify that Holland C. Gaines personally came before me this day and acknowledged that he is Manager of The Legacy at Jordan Lake, LLC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by him as its Manager.

WITNESS my hand and official seal/stamp, this the 20<sup>th</sup> day of April, 2006.

  
NOTARY PUBLIC

My Commission Expires: May 26, 2006



EXHIBIT "A"

LAND INITIALLY SUBMITTED

All that tract or parcel of land, together with the improvements and appurtenances belonging thereto, lying and being in Chatham County, North Carolina, as shown on a plat of survey entitled "Revision Phase One THE LEGACY AT JORDAN LAKE" made by Absolute Land Surveying and Mapping, PC, dated April 18, 2006, a copy of which plat was recorded on April 20, 2006, in the Chatham County Register of Deeds in Plat Book 2006-146-152, to which plat reference is hereby made for a more particular description of same.

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BOOK 1252 PAGE 601  
EXHIBIT "B"

Land Subject to Annexation

Any property located within a five (5) mile radius of the perimeter boundary of the land described on Exhibit A attached hereto.