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STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
VILLAGE AT ROCKFISH SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR VILLAGE AT ROCKFISH SUBDIVISION (as may be amended or supplemented as set forth herein, "Declaration") is made this 15 day of October, 2012 by THE VILLAGE AT ROCKFISH, LLC, a North Carolina limited liability company, whose address is 3400 Walsh Parkway, Fayetteville, North Carolina 28311 (the "Declarant").

WITNESSETH:

A. Declarant is the owner and developer of certain real estate in Cumberland County, North Carolina, more particularly described on Exhibit A attached hereto and made a part hereof (the "Property" or "Subdivision"); and

B. Declarant is developing the Property known as "Village At Rockfish" by developing a subdivision with "Lots" that are to be used for residential purposes as well as common real estate and improvements that are to be owned by a homeowners association to which the Owner of a Lot must belong and pay lien-supported maintenance assessments; and

C. At the time of the conveyance of a Lot to an Owner, the Declarant intends to make available the common amenities on the Property, if any, as they are built, and, at the time of completed development, the entire Property, excluding the Lots and dedicated streets, if any, shall be conveyed without cost or charge to the Association.

THEREFORE, the Declarant hereby declares that all of the Lots and Common Areas (defined below) now or hereafter located within the Village At Rockfish ("Subdivision") are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following covenants, conditions and restrictions, all of which are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision as a whole and of each of said Lots. All of these restrictions

shall run with the land and shall be binding upon the Declarant and upon the parties having or acquiring any right, title or interest, legal or equitable in and to the Property or any part or parts thereof subject to such restrictions, and shall inure to the benefit of the Declarant and every one of the Declarant's successors in title to any of the Property.

ARTICLE I

DEFINITIONS

Section 1.1 "Annual Board Meeting" means the annual board meeting of the Board, which shall take place immediately after each Annual Meeting of the Members.

Section 1.2 "Annual Meeting" means the annual meeting of the Members held in Cumberland County, North Carolina, within the last quarter of each calendar year, upon proper notice, at a date, time and at a place from time to time designated by the Board. The first Annual Meeting of the Members shall be held within one (1) year from the date of incorporation on such date as the initial Board shall determine.

Section 1.3 "Articles" or "Articles of Incorporation" shall mean those articles, filed with the Secretary of State of North Carolina, incorporating The Village @ Rockfish Homeowners Association, Inc., as a nonprofit corporation under the provisions of North Carolina State law, as the same may be amended from time to time.

Section 1.4 "Assessments" means Regular Assessments, Special Assessments, Working Capital Assessments, Individual Assessments and Fine Assessments.

Section 1.5 "Association" shall mean and refer to THE VILLAGE @ ROCKFISH HOMEOWNERS ASSOCIATION, INC., formed as a non-profit corporation, its successors and assigns.

Section 1.6 "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 1.7 "Bylaws" shall mean the Bylaws of the Association, as the same may be amended from time to time.

Section 1.8 "Class A Members" shall mean as defined in Section 4.5.1 below.

Section 1.9 "Class B Members" shall mean as defined in Section 4.5.2 below.

Section 1.10 "Constituent Documents" shall mean the Declaration, the Bylaws, the Restrictive Covenants, Articles of Incorporation and any other basic documents used to create and govern the Subdivision.

Section 1.11 "Common Areas" shall mean all the real estate, including retention ponds, storm drainage improvements, entrance signage, streets (including any dedicated streets prior to their acceptance for public maintenance) and all landscaping and other improvements thereon) owned by the Association for the common use and enjoyment of the Owners. Common Areas shall include, but not be limited to, any parcels designated on the Subdivision plat as "Recreation and Common Area" (unless such parks are later dedicated to the public by a subsequent dedication plat or conveyance), "Common Area" or reserved as an access drive or private street.

Section 1.12 “Common Expenses” shall mean, refer to, and include all charges, costs and expenses incurred by the Association for and in connection with the administration of the Subdivision, including, without limitation thereof, operation of the Subdivision, maintenance, repair, replacement and restoration (to the extent not covered by insurance) of the Common Areas; the costs of any additions and alterations thereto; all labor, services, common utilities, materials, supplies, and equipment therefor; all liability for loss or damage arising out of or in connection with the Common Areas and their use; all premiums for hazard, liability and other insurance with respect to the Subdivision; all costs incurred in acquiring a Lot pursuant to judicial sale; and all administrative, accounting, legal, and managerial expenses. “Common Expenses” shall also include the cost of operation, maintenance, improvement, and replacement of any Recreational Facilities, including establishing reserves therefore. “Common Expenses” shall also include amounts incurred in replacing, or substantially repairing, capital improvements within the Common Areas of the Subdivision, including, but not limited to private road and parking lot resurfacing. “Common Expenses” shall also include all reserve funds or other funds established by the Association. “Common Expenses” shall be construed broadly.

Section 1.13 “Declarant” shall mean and refer to The Village at Rockfish, LLC, a North Carolina limited liability company, its successors and assigns as a Declarant.

Section 1.14 “Default” shall mean any violation or breach of, or any failure to comply with, the Restrictions, this Declaration or any other Constituent Documents.

Section 1.15 “Development Period” means the period commencing on the date on which this Declaration is recorded in the Cumberland County Register of Deeds and terminating on the earlier to occur of (i) when Declarant no longer owns a Lot in the Subdivision; (ii) the date that Declarant relinquishes in writing Declarant’s right to appoint Directors; or (iii) the occurrence of the date ten (10) years from the date of recording the Declaration, renewable for an additional ten (10) year period with the consent of a majority of Lot Owners other than the Declarant.

Section 1.16 “Dwelling Unit” shall mean and refer to the individual family living unit on an individual Lot.

Section 1.17 “Fine Assessment” means the charge established by Section 5.4.2 of this Declaration.

Section 1.18 “Individual Assessment” means the charge established by Section 5.3 of this Declaration.

Section 1.19 “Lot” shall mean and refer to any parcel of land designated on the Plat upon which a Dwelling Unit has been or is to be constructed.

Section 1.20 “Member” shall mean and refer to all those Owners who are Members of the Association as provided in Article IV below.

Section 1.21 “Owner” shall mean and refer to the record owner, including Declarant, whether one or more persons or entities, of a fee simple title to any Lot located within the Subdivision.

Section 1.22 "Plat" shall mean and refer to the record plat of the Subdivision recorded by Declarant, as the same may be amended or supplemented by Declarant from time to time, and shall include all plats subsequently recorded to describe real estate which is annexed into this Declaration and the Subdivision under the provisions of Article II below.

Section 1.23 "Planned Community Act" shall mean and refer to the North Carolina Planned Community Act, currently codified as Chapter 47F of the North Carolina General Statutes, as the same may be amended from time to time.

Section 1.24 "Property" or "Subdivision" shall mean and refer to that certain real estate described in Exhibit A and all other real estate that may be subsequently annexed into this Declaration and the Association by the Declarant under the provisions of Article II below.

Section 1.25 "Recreational Facilities" shall mean and refer to any common community and recreational facilities located upon the property designated as "Recreation and Common Area" on the Plat and the related grounds, landscaping and improvements located, or to be located thereon.

Section 1.26 "Regular Assessment" means the charge established by Article V of this Declaration.

Section 1.27 "Resident" shall mean and refer to any person, not an Owner, living in the Owner's Dwelling Unit, including, but not limited to, temporary guests and Tenants.

Section 1.28 "Restrictions" shall mean all covenants, conditions, restrictions, easements, charges, liens and other obligations provided for in this Declaration, including, without limitation, all notices, rules and regulations issued in accordance with this Declaration, along with any Restrictions recorded for the Village At Rockfish Subdivision.

Section 1.29 "Rules and Regulations" shall mean and include the rules and regulations made from time to time by the Board of Directors as provided in Section 4.3 below.

Section 1.30 "Special Assessment" means the charge established by Section 5.2 of this Declaration.

Section 1.31 "Tenant" means any person occupying any Lot pursuant to a written or oral lease agreement with the Owner thereof or with any other person or entity claiming under the Owner.

When applicable for the sense of this instrument, the singular should be read as including the plural and the male, female, and neuter pronouns and adjectives should be read as interchangeable.

ARTICLE II

**PROPERTY SUBJECT TO THIS DECLARATION
AND ADDITIONS THERETO**

SECTION 1

The Declarant hereby declares that all of the Property is and shall be held, transferred, sold, conveyed, occupied and used subject to this Declaration and the covenants, conditions and restrictions contained herein.

SECTION 2

Additional lands may be subjected to this Declaration in the following manner:

(a) The Declarant, its successors, and assigns, shall have the right for twenty (20) years from the date of this Declaration to bring within the operation and effect of this Declaration additional portions of the land more particularly described on Exhibit "B" attached as a part of this Declaration. The additions authorized under this Section 2(a) shall be made by recording in the Office of the Register of Deeds of Cumberland County a supplement to this Declaration, which need be executed only by the Declarant and the owner of such additional land if the Declarant is not the Owner thereof, which shall describe the additional land and state that it is subject to this Declaration. The additions authorized by this Section 2(a) shall not require the approval of the Association; or

(b) Upon the written approval of the Association after the Association has attained the assent of the holders of two-thirds ($\frac{2}{3}$) of the votes of each class of members present in person or by proxy at the meeting at which the vote is taken, the owner of any land who desires to subject it to the operation and effect of this Declaration may do so by recording in the Office of the Register of Deeds a supplement to this Declaration describing the additional land and stating that it is subject to this Declaration.

Any such Supplement to this Declaration may contain such complementary additions and modifications of the covenants, conditions, and restrictions contained herein as may be necessary to reflect the different character, if any, of the added Property, provided they are not inconsistent with this Declaration. In no event, however, shall the supplement to this Declaration revoke, modify, or add to the covenants, conditions, and restrictions established by this Declaration insofar as they pertain to the Property as the same exists prior to the supplement.

ARTICLE III

PROPERTY RIGHTS IN COMMON AREAS

Section 3.1 Owner's Easements of Enjoyment. Except as herein otherwise provided, each Owner shall have a right and easement of enjoyment in and to the Common Areas, which shall be appurtenant to and shall pass with the title to his Lot. Each Tenant shall have a non-transferable right to use and enjoy the Common Areas, if any, which right shall

terminate when such person ceases to have the status of a Tenant. Such rights and privileges shall be subject, however, to the following:

3.1.1 The right of the Board to suspend the right of any Owner or the privilege of any Resident to use such of the Common Areas that are recreational in nature as determined by the Board for any infraction of the Rules and Regulations relating to the Common Areas for a period not to exceed sixty (60) days for each such infraction, or for any non-payment or delinquency of the Assessments against such Owner's Lot for a period not to exceed the period of such non-payment or delinquency;

3.1.2 The right of the Board to adopt and enforce and from time to time amend reasonable limitations upon use and Rules and Regulations pertaining to the use of the Common Areas, including regulations limiting guests of Owners and Tenants who may use the Common Areas at any one time;

3.1.3 All applicable provisions of valid easements and/or agreements of the Association relating to the Common Areas;

3.1.4 The right of the Association to grant permits, licenses and public or private easements over Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property; or

3.1.5 The right of Declarant or the Association to dedicate or convey portions of the Common Areas to applicable governmental authorities for park purposes.

Section 3.2 Extension of Use. Any Owner may extend his right of enjoyment to the Common Areas to the immediate and/or extended members of his family, his Tenants, guests or contract purchasers of the Owner's Lot.

Section 3.3 Title to Common Areas. The Declarant shall convey by deed all Common Areas to the Association in fee simple absolute after the final platting of all Lots in the Subdivision. Any such conveyance shall be subject to taxes for the year of conveyance, and to restrictions, conditions, limitations and easements of record.

Section 3.4 Use of Common Areas by Declarant. In addition to the specific rights and easements reserved herein, Declarant and its affiliates and associates shall have the same rights of use and enjoyment of the Common Areas as the Class A Members during the Development Period, and shall have the same right to use Common Areas for promotional, sales and similar purposes until all of the Lots have been sold.

ARTICLE IV

HOMEOWNERS ASSOCIATION

Section 4.1 Homeowners Association. There has been created a North Carolina non-profit corporation, known as The Village @ Rockfish Homeowners Association, Inc., which shall be responsible for the maintenance, management and control of the Common Areas as more specifically set forth in this Declaration.

Section 4.2 Board of Directors and Officers. The Board of Directors, and such officers as may be elected or appointed in accordance with the Articles or the Bylaws, shall conduct the affairs of the Association. The Board of Directors may also appoint committees and managers or other employees and agents who shall, subject to the general direction of the Board of Directors, be responsible for the day-to-day operation of the Association.

Section 4.3 Rules and Regulations. By a majority vote of the Board of Directors, the Association may, from time to time adopt, amend and repeal Rules and Regulations with respect to all aspects of the Association's rights, activities and duties under this Declaration. The Rules and Regulations may, without limitation, govern use of the Subdivision, including prohibiting, restricting or imposing charges for the use of any portion of the Subdivision by Owners, Residents or others, interpret this Declaration or establish procedures for operation of the Association or the administration of this Declaration; provided, however, that the Rules and Regulations shall not be inconsistent with this Declaration, the Articles, Bylaws or the terms of any recorded easement Agreement. A copy of the Rules and Regulations, as they may from time to time be adopted, amended or repealed, shall be maintained in the office of the Association and shall be available to each Owner upon request.

Section 4.4 Membership of Association. Every Owner of a Lot shall be a Member of the Association. Such Owner and Member shall abide by the Association's Rules and Regulations, shall pay the Assessments provided for in this Declaration, when due, and shall comply with decisions of the Association's governing body. Conveyance of fee simple title to a Lot automatically transfers membership in the Association without necessity of further documents. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to Assessment.

Section 4.5 Classes of Membership. The Association shall have two (2) classes of Membership:

4.5.1 Class A Members. Every person, group of persons, or entity which is a record Owner of a fee interest in any Lot upon which a Dwelling Unit has been erected within the Property, shall automatically be a Class A Member of the Association except the Declarant during the Development Period; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a Member. A Class A Membership shall be appurtenant to and may not be separated from ownership of any Lot upon which a Dwelling Unit has been constructed that is subject to Assessment. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record Owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot portion shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.

4.5.2 Class B Members. The Class B Member during the Development Period shall be the Declarant. Class B Membership shall cease upon the expiration of the Development Period.

4.5.3 Voting. Each Class A Member shall have one vote with respect to each Lot owned by such Member, but a Class A Member shall not be entitled to exercise any vote until the expiration of the Development Period. The Class B Member shall be the only Member entitled to vote during the Development Period.

Section 4.6 Maintenance Obligations of the Association. The Association, at its expense, shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the Common Areas and all improvements located thereon for the common benefit of the Subdivision. This shall include, without limitation, the maintenance, repair, replacement and painting of the following landscaping and improvements (to the extent that such improvements or landscaping are located upon or constitute Common Areas): (a) all private roadways, driveways, pavement, sidewalks, walkways and uncovered parking spaces; (b) all lawns, trees, grass and landscape areas, shrubs and fences, except as otherwise set forth hereinbelow; (c) all drainage and retention ponds; (d) all conduits, ducts, utility pipes, plumbing, wiring and other facilities which are part of or located in, or for the furnishing of utility services to, the Common Areas and which are not for the exclusive use of a single Dwelling Unit.

The Association shall make the determination as to when maintenance, repair, replacement and care shall be done, and its determination shall be binding. Declarant shall have the right to employ a manager to oversee and implement the Association's maintenance obligations, and any such management fees incurred thereby shall be paid by the Association. The Association shall also perform the other duties prescribed by this instrument or the Association's Rules and Regulations.

Section 4.7 Maintenance Obligation of the Lot Owners. The responsibilities of each Lot Owner shall include:

4.7.1 To clean, maintain, keep in good order, repair and replace at his or her expense all portions of his or her Lot and Dwelling Unit. Any repair, replacement and maintenance work to be done by an Owner must comply with any Rules and Regulations of the Association including architectural control and visual harmony.

4.7.2 To perform his responsibilities in such manner so as not unreasonably disturb other persons residing within the Subdivision.

4.7.3 Not to impair the use of any easement without first obtaining the written consents of the Association and of the Owner or Owners for whose benefit such easements exists.

4.7.4 Each Lot Owner shall be deemed to agree by acceptance of delivery of a deed to a Lot; to repair and/or replace at his or her expense all portions of the Common Areas which may be damaged or destroyed by reason of his or her own intentional or negligent act or omission, or by the intentional or negligent act or omission of any invitee, tenant, licensee family member, including, but not limited to any repairs necessary which result from damage incurred by pets or vehicles owned by the Lot Owner, or owned by any guest, invitee, Tenant or licensee of such Lot Owner. To the extent that any Common Area is damaged as an insurable loss and

the proceeds from the Association's insurance policy are utilized to pay for the loss, the Owner shall be responsible for payment of the deductible as an Individual Assessment in accordance with Section 5.3 and Section 7.7 below.

Section 4.8 Construction Defects. The obligations of the Association and of Owners to repair, maintain and replace the portions of the Subdivision for which they are respectively responsible shall not be limited, discharged or unreasonably postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in materials or workmanship in the construction of the project. The undertaking of repair, maintenance or replacement by the Association or Owners shall not constitute a waiver of any rights against any warrantor but such rights shall be specifically reserved. Likewise, this Section 4.8 is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by Association may be delayed if Association does not have the means or the funds to repair the defect or if by repairing the defect, Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

Section 4.9 Effect of Insurance or Construction Guarantees. Notwithstanding the fact that the Association and/or any Lot Owner may be entitled to the benefit of any guarantee of material and workmanship furnished by any construction trade responsible for any construction defects, or to benefits under any policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of construction guarantee or insurance coverage shall not excuse any unreasonable delay by the Association or any Lot Owner in performing his obligation hereunder. Likewise, this Section 4.9 is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by Association may be delayed if Association does not have the means or the funds to repair the defect or if, by repairing the defect, the Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 5.1 Regular Assessments. Regular Assessments for the payment of the Common Expenses shall be made in the manner provided herein, and in the manner provided in the Bylaws. The Regular Assessment is established for the benefit and use of the Association and shall be used in covering all of the Common Expenses.

Section 5.2 Special Assessment. In addition to levying Regular Assessments, and to the extent that the reserve fund is insufficient, the Board of Directors may levy Special Assessments to construct, structurally alter, or replace improvements which are a part of the Common Areas, provided that funds shall not be assessed for any capital improvement in excess of Twenty Five Thousand and 00/100 Dollars (\$25,000.00) for any one item or in excess of Fifty Thousand and 00/100 Dollars (\$50,000.00) in the aggregate in any one calendar year ("Capital Expenditure Limit") without the prior written consent of two-thirds (2/3) of the votes of each Class of Members who are voting either in person or by proxy at a meeting duly called for such purpose or unless expressly stated in the annual budget. The Board of Directors shall have the

authority to adjust the Capital Expenditure Limit annually to account for inflation, which adjustment shall be effective each January (hereinafter referred to as the "Adjustment Date") commencing January 1 of the next year following the year during which the sale of the first Lot by Declarant. As of each Adjustment Date, the Capital Expenditure Limit shall be increased from the Capital Expenditure Limit on the date of this Declaration ("Effective Date") by a percentage equal to the percentage increase, if any, in the Consumer Price Index, All Urban Consumers ("CPI-U"), (1982-1984=100), All Items, as compiled and published by the Bureau of Labor Statistics, U.S. Department of Labor ("CPI") from the Effective Date to the Adjustment Date. If after the date of this Declaration the CPI is converted to a different standard reference base or otherwise revised or ceases to be available, the determination of any new amount shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by any other nationally recognized publisher or similar statistical information reflected by the Board. Until the expiration of the Development Period or the date on which Declarant no longer owns a Lot, whichever is earlier, Declarant must be one of the consenting Members, or the capital improvement shall not be made. The Board of Directors shall calculate each Lot's proportionate share of the Special Assessment for the capital improvements, and shall give the Lot Owner(s) written notice of the proportionate share and of the date(s) that the Special Assessment is due and payable. Notwithstanding the foregoing, Declarant shall have no obligations to pay any Special Assessment with respect to any Lot owned by it unless there is a Dwelling Unit located upon the Lot that is occupied as a residence.

Section 5.2 Individual Assessment. In the event that the need for maintenance, repair or replacement of any improvement on the Property, for which the Association has the maintenance, repair and/or replacement obligation, is caused through the willful or negligent act of an Owner, his family, his pet(s), Resident, the cost of such maintenance, repairs or replacements shall be paid by such Owner. The Board shall have the maintenance, repair or replacement done and the cost thereof shall be provided by the Board to said Owner and shall be paid by said Owner within thirty (30) days thereafter, unless an earlier date is otherwise set forth herein.

Section 5.3 Date of Commencement of Assessments; Due Dates; Determination of Regular Assessments; Fine Assessments.

5.3.1 The annual Regular Assessment provided for herein shall become due and payable as to each Lot for the period beginning on the first day following the conveyance of such Lot on which a Dwelling Unit which been fully constructed and for which a Certificate of Occupancy has been issued to an Owner for use by such Owner as a personal residence. Neither the Declarant, nor a contractor or builder who has purchased a Lot for construction of a Dwelling Unit on a Lot for resale shall be responsible for paying the Regular Assessment. The Board of Directors shall fix the amount of the annual Regular Assessment to be paid by each Class A Member against each Lot at the beginning of each calendar year. Written notice of the annual Regular Assessment shall be sent to every Class A Member subject thereto. The Board of Directors shall establish the due date.

5.3.2 The Board of Directors, or an adjudicatory panel established by the Board of Directors, may levy a reasonable Fine Assessment, as a fine or penalty for violation of this Declaration, all in accordance with the Planned Community Act. A lien may be filed for this

Fine Assessment and this Fine Assessment may be enforced by foreclosure and otherwise treated as a Regular Assessment.

5.3.3 Both Regular and Special Assessments for a Lot Owner shall be determined by the Association based upon the proportion that each Lot bears to the aggregate number of Lots located on the Property, except those owned by Declarant which are not assessed in accordance with Section 5.3.1 above. The Association's governing body may, at its discretion, waive the Regular Assessment for any year or part of a year for any Lot not occupied as a residence.

Section 5.4 Billing. The Association shall inform each Lot Owner of the amount of the total Regular Assessment due from the Owner of that particular Lot. This Regular Assessment shall be paid in one annual installment. The Owner of each Lot must pay his Lot's required Regular Assessment in advance of the first calendar day of each year, unless the Association otherwise directs. Payment is to be made to such person at such an address as Association determines. Special Assessments are due thirty (30) days after the bill for the Special Assessment has been mailed or otherwise sent out by Association, unless the Association otherwise directs. The Owners of the initial Lots in the Subdivision, except Declarant, shall be obligated to pay the Regular Assessment on the first day of the initial conveyance of the Lot from Declarant to the Owner. If the Subdivision is expanded and additional Lots are brought into the Subdivision during a given Assessment year, those additional Lots shall pay the Regular Assessment on the first day of the initial conveyance of the Lot from Declarant to the Owner.

Section 5.5 Common Surplus. If the Regular Assessment collected in any given year is in excess of the actual Common Expenses for that year, the Board may, at its sole discretion (a) return each Owner's share of the Common Surplus; (b) credit each Owner's share of the Common Surplus to each Owner's payment as for the Regular Assessment for the following year; or (c) apply the Common Surplus to the reserve.

Section 5.6 Assessment Certificate. The Association shall, upon demand, at any reasonable time, furnish to any Owner liable for Assessments a certificate in writing signed by an Officer or other authorized agent of the Association, setting forth the status of said Assessments; i.e., "current", and if not current, "delinquent" and the amount due. Such certificate shall be conclusive evidence of the payment of any Assessment therein stated to have been paid. A reasonable charge to cover labor and materials may be made in advance by the Association for each certificate.

Section 5.7 Books and Records of the Association. The Association shall keep full and correct books of account. The Association shall make available to all Lot Owners and the holders of all first mortgages on Lots, current copies of the books, records and financial statements of the Association upon reasonable request during normal business hours. All funds collected by the Association shall be held and expended solely for the purposes designated by this Declaration and shall be deemed to be held for the use, benefit and account of the Association and all of the Lot Owners. All books and records must be kept in accordance with good accounting procedures and must be reviewed at least once a year by an independent accounting firm.

Section 5.8 Non-Payment of Assessment. Any Assessments levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest and other costs as set out elsewhere in this Declaration, thereupon become a continuing lien upon the Lot which shall bind the Lot in the hands of the then Owner and the Owner's successors and assigns.

If the Assessment is not paid within thirty (30) days after the due date, the Assessment shall bear interest at a reasonable rate of ten percent (10%) per year or at such other reasonable rate set by Association in its minutes, not to exceed the maximum amount allowed by law, and the Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot, in either of which events interest, costs and reasonable attorneys' fees shall be added to the amount of each Assessment. No Owner may waive or otherwise escape liability for the Assessments by non-use or waiver of use of the Common Areas or by abandonment of his Lot.

Section 5.9 Priority of Association Lien. The lien provided for in this Article V shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages which have been filed of record before a claim of this lien hereunder has been docketed in the office of the clerk of superior court in Cumberland County, and may be foreclosed in the same manner as a mortgage on real property under power of sale in an action brought by the Association in accordance with the Planned Community Act. The Association is entitled to recover its reasonable attorneys' fees and court costs and collection costs, as part of the lien. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale.

Section 5.10 Disputes as to Common Expenses; Adjustments. Any Owner who believes that the portion of Common Expenses chargeable to his Lot, for which an assessment lien has been filed by the Association, has been improperly charged against his or her Lot, may bring action in an appropriate court of law.

Section 5.11 Purchaser at Foreclosure Sale Subject to Declaration, Bylaws, Rules and Regulations of the Association. Any purchaser of a Lot at a foreclosure sale shall automatically become a Member of the Association and shall be subject to all the provisions of this Declaration, the Bylaws and the Rules and Regulations.

Section 5.12 Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. When the holder of a first mortgage or first deed of trust or other purchaser of a Lot acquires title to the Lot as a result of foreclosure of the first mortgage first deed of trust or by deed in lieu of foreclosure, such acquirer of title, his, her or its successors and assigns, shall not be solely liable for the share of the Common Expenses or other Assessments by the Association chargeable to such Lot which became due prior to the acquisition of title to the Lot by such acquirer, other than Assessments for which a claim of lien has been docketed with the Cumberland County clerk of superior court prior to the recordation of the lien being foreclosed. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from all of the Lots, including that of such acquirer, his, her or its successors or assigns. This provision shall not relieve the party acquiring title or any subsequent Owner of the subject Lot from paying future Assessments.

Section 5.13 Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of a Lot, any grantee or his or her first mortgagee shall inform the Board of Directors in writing of such contemplated conveyance and such grantee or first mortgagee shall be entitled to a statement from the Board of Directors of the Association setting forth the amount of all unpaid Assessments (including current Assessments) against the grantor due the Association. Neither the grantee nor the mortgagee shall be personally obligated for any delinquent Assessments, but such delinquent Assessments, along with interest, late charges, costs and reasonable attorneys fees shall be a lien against the Lot in accordance with Section 5.9 and Section 5.10 herein.

Section 5.14 Late Charge. The Association may impose a charge against any Lot Owner who fails to pay any amount assessed by the Association against his Lot within ten (10) days after such Assessments are due and payable and who fails to exercise his rights under this Declaration or under the laws of the State of North Carolina to successfully contest such Assessment. The amount of the late charge shall be the greater of (a) twenty and 00/100 Dollars (\$20.00), or (b) twenty percent (20%) of the delinquent amount, or such other amount as allowed by law.

Section 5.15 Ad Valorem Taxes Against Common Areas. The Association shall be responsible for the provision of liability insurance, any taxes, and any maintenance of recreation areas and other facilities located on the Common Area, payment of assessments for public and private capital improvements made to or for the benefit of the Common Areas located within the Subdivision. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Area or assessments for public improvements to the Common Area, which default shall continue for a period of six months, each owner of a Lot or unit in the Subdivision shall become personally obligated to pay to the County Tax Assessor a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due by the total number of Lots or units in the Subdivision. If such sum is not paid by the owner within thirty days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot or unit of the then owner(s), the owner(s)' heirs, devisees, personal representatives and assigns, and the County Tax Assessor may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the property of the owner.

Section 5.16 Miscellaneous.

5.16.1 The Association may change the interest rate due on delinquent Assessments (including any late charges), except that the rate cannot be changed more often than once every six (6) months. As of its effective date, the new interest rate will apply to all Assessments then delinquent.

5.16.2 The Owner has the sole responsibility of keeping the Association informed of the Owner's current address if different from the Lot owned. Otherwise notice sent by Association to the Lot is sufficient for any notice requirement under this Declaration.

5.16.3 The Assessment lien includes all collection costs, including demand letters, preparation of documents, reasonable attorneys' fees, court costs, filing fees, collection

fees, and any other expenses incurred by the Association in enforcing or collecting the Assessment.

5.16.4 No Owner of a Lot may exempt himself or herself from liability for his or her contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of his or her Lot.

5.16.5 This Section 5.15 applies to every type of Assessment.

ARTICLE VI

EASEMENTS AND ENCUMBRANCES

Section 6.1 Easement for Encroachments. The Dwelling Units, all utility lines, and all other improvements as originally constructed by or on behalf of Declarant or its assigns shall have an easement to encroach upon any setback, Lot or Common Area as a result of the location of the building, utility lines and other improvements across boundary lines between and along Lots and/or the Common Areas, or as a result of building or improvement movement or alterations or additions from time to time, provided that such alterations or additions have complied with the requirements of this Declaration.

Section 6.2 Lot's Utility Easements. Easements are granted in favor of each Lot Owner to and throughout the Common Areas and, if necessary, the setback areas of any other Lots, as may be necessary for the installation, maintenance, repair and use of underground water, gas, sewer, power and other utilities and services including power and communication, now or hereafter existing, including maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or other components. The foregoing notwithstanding, no Lot Owner (other than Declarant) may exercise the easement rights reserved in this Section 6.2 without the prior written approval of the Board as described in Section 6.6 below and the Declarant, so long as it owns a Lot in the Subdivision.

Section 6.3 Utility Easements. Easements are reserved and/or granted hereby in favor of the Declarant and/or the Association through each Lot (provided that such easements shall not materially and unreasonably interfere with the use of any dwelling located upon any Lot) and the Common Areas for the purpose of installing, laying, maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or other components throughout the Common Areas. Without limiting any other provision in this Article 6, it is understood that Declarant's easement rights reserved herein may be utilized for the benefit of property within or outside of the Subdivision. Each Lot Owner and/or his respective mortgagee by acceptance of a deed conveying such ownership interest and each mortgagee encumbering such ownership interest, as the case may be, hereby irrevocably appoint Declarant, or the Association, as the case may be, as his attorney in fact, coupled with an interest, and authorize, direct and empower such attorney, at the option of the attorney, to execute, acknowledge and record for and in the name of such Lot Owner and his mortgagee, such easements or other instruments as may be necessary to effect the purpose of this Section 6.3. The easements may be assigned and/or granted by the Declarant and/or the Association to any utility or service company.

Section 6.4 General Easements. An easement is hereby reserved and/or granted in favor of the Declarant and/or the Association in, on, over and through the Common Areas, the Lots and/or Dwelling Units for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, policing, replacing and otherwise dealing with the Common Areas, Lots and/or Dwelling Units, including all improvements thereon as required or permitted by the Constituent Documents or applicable law. An easement is hereby reserved in favor of Declarant over the Common Areas for the purpose of advertising or promoting sales of Lots or Dwelling Units in the Subdivision.

Section 6.5 Access Easement. Appurtenant to each Lot is an easement over any Common Area for necessary pedestrian and vehicular ingress and egress to and from any such Lot over the Common Areas, to and from a thoroughfare. The easement shall be over such walkways, driveways, or other ways as are designated by the Declarant and/or the Association and shall be subject to the terms of the Constituent Documents.

Section 6.6 Use of Easement. Any use of the rights and easements granted and reserved in this Article VI shall be reasonable. If any damage, destruction, or disturbance occurs to a Lot or Common Area as a result of the use of any easement or right, the Lot or Common Area shall be restored by, or at the direction of, the Association promptly in a reasonable manner at the expense of the person or persons making the use of the easement or right that resulted in the damage, destruction or disturbance. Before beginning work, Association may require all or any part of the expected expense to be prepaid by that person or those persons liable for the expense. Additionally, should any Lot Owner other than Declarant elect to exercise its easement rights hereunder, it shall be required to obtain the Board's prior written approval (not to be unreasonably withheld), after providing the Board with detailed plans of its proposed work, as well as evidence of appropriate insurance and other such reasonable information or assurances as the Board may require. No easement may be granted across, through, over, or under any Lot or Common Area, which materially restricts ingress and egress to the Lot or Common Area, unless reasonable alternate ingress and egress is provided or unless the restrictions is only temporary. All easements reserved hereunder shall be perpetual and non-exclusive.

Section 6.7 Reservation of Access Easement by Declarant. Declarant reserves an easement for itself, its grantees, successor and assigns, to enter upon the Subdivision for access, including ingress and egress for both vehicles and pedestrians, to and from any public street, road, land, walkway or right-of-way. The easement shall be over the streets, sidewalks, bridges and other access ways of the Subdivision. Declarant further reserves the right to connect, at Declarant's expense, to any street, roadway, walkway or other means of access that are located on the Common Areas of the Subdivision. This reservation of access easements and the right of connection should be construed liberally in favor of the Declarant, in order to facilitate the development of all or any portion of the Subdivision.

Section 6.8 Reservation of Construction Easement by Declarant. The Declarant reserves the non-exclusive right and easement to temporarily go upon the Subdivision in order to complete the development of the Subdivision and the construction of the improvements to be located therein, and to develop other neighboring land. The easement should be construed broadly in favor of the Declarant, including giving Declarant the right to store temporarily construction materials, equipment or dirt. After the construction is finished, Declarant must, at

Declarant's cost, repair any damage done to the Subdivision including to any landscaping. As soon as reasonably possible after Declaration has completed construction on the neighboring land, Declarant must remove all debris, equipment, materials and dirt from the Subdivision.

Section 6.9 Roadway Easement. Pursuant to the Roadway Declaration, Declarant has reserved for the benefit grants to all Lot Owners, the non-exclusive right of ingress and egress on, over and across all public and private roadways (the "Roadways") located on or to be located on a portion of the Subdivision which private roadways extend between one or more publicly dedicated streets. Roadways other than those (if any) that have been accepted by applicable governmental authorities for maintenance, constitute Common Areas and shall be maintained, insured, and repaired by the Association in accordance with this Declaration and the Roadway Declaration. The Declarant hereby reserves the right (but not the obligation), in its sole discretion, to annex additional Roadways into the Subdivision. Notwithstanding the foregoing to the contrary, no part of the Roadway shall be dedicated or transferred to a unit of local government without acceptance of the unit of local government involved.

Section 6.10 Declarant's Easements: General. The easements and grants reserved for and granted to the Declarant also benefit and bind any heirs, successors and assigns of Declarant and their respective guests, invitees or lessees, including, without limitation, assignees of Declarant who do not own property within the Subdivision.

Section 6.11 Easements to Run with Land. All easements and rights described in this Article VI are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Declarant, its successors and assigns, and any Owner, purchaser, mortgagee, and other person or entity now or hereafter having an interest in the Subdivision, or any part or portion of it.

Section 6.12 Reference to Easements and Deeds. Reference in the respective deeds of conveyance or any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees in said instruments as fully and completely as those such easements and rights were recited fully and set forth in their entirety in such instruments.

ARTICLE VII

INSURANCE

Section 7.1 General Insurance. In addition to such insurance as is required to be maintained by the Association, the Association shall carry a master policy of fire and extended coverage, vandalism, malicious mischief and liability insurance, and if required by law, workmen's compensation insurance with respect to the Subdivision and the Association's administration thereof in accordance with the following provisions:

7.1.1 The Association shall purchase a master policy for the benefit of the Association, the Lot Owners and their mortgagees as their interest may appear, subject to the

provisions of this Declaration and the Bylaws. The "master policy" may be made up of several different policies purchased from different agencies and issued by different companies.

7.1.2 All Common Areas now or at any time hereafter constituting a part of the Subdivision shall be insured against fire and other perils covered by a standard extended coverage endorsement, in an amount not less than one hundred (100%) percent of the replacement value thereof, with a deductible agreed to by the Board of Directors, exclusive of the cost of the land, foundations, footings, excavation, and architect's fees, without deduction for depreciation. The policy shall have cost of demolition, water damage (excluding floods, backing up of sewers and drains, the running off of surface water, and the overflow of a body of water), and agreed amount endorsements and a deductible on any single loss or group of losses within one year in such amounts as shall be found reasonable by the Board of Directors, after carefully considering and comparing the increased premium costs resulting from a low deductible with the lower premium costs but higher per loss risk resulting from a high deductible, together with all other pertinent factors. The policy providing such coverage shall provide that no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt. Such policy shall provide coverage for built-in fixtures and equipment in an amount not less than one hundred percent (100%) of the replacement cost thereof (subject to the deductible provisions described above) and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Lot Owner as hereinafter permitted. Such policy shall also contain either a waiver by the insurer of any increased hazard clause, a severability of interest endorsement, or a provision stating that the coverage will not be affected by the act, omission or neglect of any person unless such act, omission or neglect is within the knowledge and control of the Association prior to the occurrence of the loss. Such policy shall not provide coverage for any items of personal property owned by any Lot Owner.

7.1.3 Such master policy of insurance shall contain provisions requiring the issuance of certificates of coverage and the issuance of written notice to the Association and to any mortgagee or mortgagees of any Lot Owner not less than thirty (30) days prior to any expiration, substantial modification or cancellation of such coverage.

7.1.4 Such insurance by the Association shall not prevent an Owner of a Lot to obtain insurance on its own property, but no Lot Owner may at any time purchase individual policies of insurance covering any item which the Association is required to insure. If any Lot Owner does purchase such a policy, he or she shall be liable to the Association for any damages, expenses or losses which it suffers or incurs as a result thereof, and the Association shall have the same lien rights provided by Article V hereof for Common Expense payments with respect to any such damages, expenses or losses not paid to it by such Owner.

7.1.5 The Board of Directors shall review the insurance coverage required under this Section 7.1 at least annually, and if any of such insurance coverage becomes impossible or impractical to obtain, the Association shall obtain coverage that most closely approximates the required coverage with the deductible provisions as determined by the Board of Directors. In any event, all such insurance must comply, at a minimum, with the applicable requirements set forth in the North Carolina Planned Community Act.

7.1.6 If the required insurance coverage under this Section 7.1 ceases to exist for any reason whatsoever, any mortgagee of any portion of the Subdivision may remedy that lack of insurance by purchasing policies to supply that insurance coverage. The funds so advanced shall be deemed to have been loaned to the Association; shall bear interest at a per annum rate two percent (2%) higher than the basic interest rate in any note secured by the mortgagee's mortgage against a portion of the Subdivision; and shall be due and payable to the mortgagee by the Association immediately. The repayment of this obligation shall be secured by a Special Assessment against all Lot Owners under Article V of this Declaration and shall not require a vote of the Members of the Association, anything to the contrary in this Declaration notwithstanding.

7.1.7 The Association shall also maintain liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas. The Association shall try to have its liability insurance contain cross-liability endorsements or appropriate provisions to cover liability of the Lot Owners, individually and as a group (arising out of their ownership interest in the Common Areas), to another Lot Owner.

Section 7.2 Fidelity Insurance. The Association may have fidelity coverage against dishonest acts on the part of Officers and employees, Members of the Association, members of the Board, trustees, employees or volunteers responsible for the handling of funds collected and held for the benefit of the Lot Owners. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than the insured's total Regular Assessment, plus all accumulated reserves and all other funds held by the Association either in its own name or for the benefit of the Lot Owners.

Section 7.3 Directors' and Officers' Errors and Omissions Insurance. The Association shall purchase insurance to protect itself and to indemnify any Director or Officer, past or present against expenses actually and reasonably incurred by him/her in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such Director or Officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the Association; or to obtain such fuller protection and indemnification for Directors and Officers as the law of North Carolina permits. The policy or policies shall be in an amount to be reasonably determined by the Association.

Section 7.4 Premiums. All premiums upon insurance purchased by the Association shall be Common Expenses. Notwithstanding the foregoing, the Lot Owners may be responsible for certain deductibles to the insurance policies purchased by the Association as outlined in Section 7.1 and Section 7.7 herein.

Section 7.5 Proceeds. Proceeds of all insurance policies owned by the Association shall be received by the Association for the use of the Lot Owners and their mortgagees as their interest may appear; provided, however, the proceeds of any insurance received by the Association because of property damage shall be applied to repair and reconstruction of the damaged property, except as may otherwise be permitted by this Declaration.

Section 7.6 Power of Attorney. Each Lot Owner shall be deemed to appoint the Association as his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of the master policy or any other insurance policy obtained by the Association. Without limitation on the generality of the foregoing, the Association as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefor, to collect proceeds and to distribute the same to the Association, the Lot Owners and their respective mortgagees as their interest may appear, to execute releases of liability and to execute all documents and to do all things on behalf of such Lot Owners and the Subdivision as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Association in regard to such matters.

Section 7.7 Responsibility of Lot Owner. The Association shall not be responsible for procurement or maintenance of any insurance covering any Lot or Dwelling Unit, or the contents of and Lot or Dwelling Unit nor the liability of any Lot Owner for injuries not caused by or connected with the Association's operation, maintenance or use of the Common Areas or other property located in the Subdivision. Each Lot Owner shall, at his or her own expense, obtain public liability insurance for personal injuries or damage arising out of the use and occupancy of or occurring within his Lot or Dwelling Unit. In addition, each Lot Owner shall maintain fire and extended coverage insurance on his Dwelling Unit, and the contents of his Dwelling Unit. The Association may request the Lot Owner to provide a copy of the policy(s) to the Association evidencing this insurance coverage at any time.

Each Lot Owner agrees that if any Owner(s) damages a building or other improvements now or at any time hereafter constituting a part of the Common Areas of the Subdivision which is covered under the Association's insurance policy, the Owner or Owners causing such damage shall be responsible for paying the lesser of: (a) the insurance deductible due under the Association's insurance policy; or (b) the cost to repair and/or replace any damage to a building or other improvements, which amount shall be due within ten (10) days after the delivery of written notice of such deductible due or replacement/repair costs by the responsible Lot Owner(s) or twenty (20) days after mailing of such notice by certified mail, whichever occurs first. In the event a Lot Owner refuses or fails to pay the insurance deductible or replacement/repair costs in the time period provided in the preceding sentence, the amount thereof may be advanced by the Association and the amount so advanced by the Association shall be assessed to such Owner as an Individual Assessment, which shall be due and payable following seven (7) days written notice.

Section 7.8 Release. All policies purchased under this Article VII by either the Association or the individual Lot Owners shall provide for the release by the issuer, thereof, of any and all rights of subrogation or assignment and all causes and rights of recovery against any Lot Owners, member of their family, their employees, their tenants, servants, agents and guests, the Association, any employee of the Association, the Board, or any occupant of a Dwelling Unit in the Subdivision, for recovery against any one of them for any loss occurring to the insured property resulting from any of the perils insured against under the insurance policy.

Section 7.9 Approximate Coverage. If any of the required insurance coverage under this Article VII becomes or is impossible to obtain or can be obtained only at an

unreasonable cost, the Association shall obtain coverage which most closely approximates the required coverage, if such substitute insurance is available.

Section 7.10 Additional Policy Requirements. All such insurance coverage obtained by the Association shall be written in the name of the Association, for the use and benefit of the Association, the Lot Owners and their mortgagees, as further identified below. Such insurance shall be governed by the provisions hereinafter set forth:

7.10.1 Exclusive authority to adjust losses under policies in force on the Subdivision obtained by the Association shall be vested in the Association provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

7.10.2 In no event shall the insurance coverage obtained by the Association hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees, and the insurance carried by the Association shall be primary.

7.10.3 All casualty insurance policies shall have an agreed amount endorsement with an annual review by one or more qualified persons.

7.10.4 The Association shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

7.10.4.1 a waiver of subrogation as discussed in Section 7.8;

7.10.4.2 that no policy may be canceled, invalidated, or suspended on account of the acts of any one or more individual Owners;

7.10.4.3 that no policy may be canceled, invalidated or suspended on account of the conduct of any Director, officer or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner or mortgagee; and

7.10.4.4 that any "other insurance" clause in any policy exclude individual Owner's policies from consideration.

ARTICLE VIII

ASSOCIATION

Section 8.1 Association. The administration of the Subdivision shall be vested in the Association. The Owner of any Lot, upon acquiring title, shall automatically become a Member of the Association and shall remain a Member until such time as his ownership of such Lot ceases for any reason, at which time his membership in the Association shall automatically cease. The Association shall have full power and responsibility to administer, operate, sustain, maintain, and govern the Subdivision including but not limited to, the powers and responsibilities to make prudent investments of funds held by it; to make reasonable Rules and

Regulations; to borrow money; to make Assessments; to bring lawsuits and defend lawsuits; to enter into contracts; to enforce all of the provisions of this Declaration, the Bylaws and any other documents or instruments relating to the establishment, existence, operation, alternation of the Subdivision. The powers of the Association shall be construed liberally and shall include, without limitation, all of the powers set forth in *Section 47F-3-102* of the Planned Community Act.

Section 8.2 Board of Directors. Unless otherwise specifically stated in this Declaration, the Association shall act exclusively through its Board of Directors (the "Board"). The Association in accordance with the Bylaws shall choose the Board. The Board shall be authorized to delegate the administration of its duties and powers by written contract to a managing agent or administrator employed for that purpose by the Board.

Section 8.3 Limitations on Association's Duties.

8.3.1 The Association did not construct the improvements, including the Dwelling Units. The Association does not warrant in any way or for any purpose, the improvements in the Subdivision. Construction defects are not the responsibility of the Association.

8.3.2 The Association shall have a reasonable time in which to make any repair or do any other work, which it is required to do under the Constituent Documents. The Association must first have actual knowledge of a problem. Any determination of the reasonableness of the Association's response, must allow for the facts that the Association is volunteer and that the funds available to the Association are limited.

8.3.3 In case of ambiguity or omission, the Board may interpret the Declaration and the other Constituent Documents, and the Board's interpretation shall be final if made without malice or fraud. Notwithstanding the foregoing, the Declarant may overrule any interpretation affecting it, for so long as Declarant owns any portion of the Property; and such interpretation cannot be enforced against the Declarant, its successors or assigns.

ARTICLE IX
MORTGAGEE'S RIGHTS

Section 9.1 Notice of Rights of Mortgagee of a Lot. As used herein, the term "Mortgagee" shall mean the holder of a first lien mortgage or deed of trust on a Lot who provides notice to the Association with its name and address with a request to receive any notices and other rights provided to "Mortgagees" under this Article IX. A Mortgagee of a Lot shall be entitled to receive written notification of any default, not cured within sixty (60) days after its occurrence, by the Owner of the Lot with respect to any obligation of the Owner under the Declaration, the Bylaws of the Association or the Articles of Incorporation of the Association. Any Mortgagee of a Lot can make the request for notification. The notification shall be sent not later than the 65th day after the occurrence of an uncured Default.

Section 9.2 Rights of First Refusal. Any right of first refusal now or hereafter contained in this Declaration or any amendment or modification hereto or otherwise arising in favor of the Association or certain Owners shall not apply to or preclude or impair in any way

the right of the first Mortgagee to (i) foreclose or take title to the Lot pursuant to the remedies provided in its mortgage; (ii) accept a deed or assignment in lieu of foreclosure in the event of a default under the Mortgage; or (iii) sell or lease a Lot and Dwelling Unit acquired by the Mortgagee.

Section 9.3 Rights of Mortgagee. Unless at least seventy five percent (75%) of the Mortgagees (based upon one vote for each first mortgage or deed of trust owned), and a vote of seventy-five percent (75%) of the votes allocated to the Members entitled to vote hereunder, the Association shall not:

9.3.1 by an act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Subdivision or Common Areas or improvements located thereon which are owned directly or indirectly by the Association for the benefit of the Lots (the granting of easements for public utilities or for other purposes consistent with the intended use of the Subdivision, or the conveyance of Common Area (not including the Recreational Facilities) to a local governmental authority for public park purposes or the conveyance or dedication of Roadways shall not be deemed a transfer within the meaning of this clause);

9.3.2 change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot;

9.3.3 by act or omission change, waive or abandon any scheme of regulation or enforcement thereof pertaining to the architectural design or exterior appearance of the Dwelling Units, the exterior maintenance of the Dwelling Units, the maintenance of common fences or driveways or the upkeep of lawns and plantings in the Subdivision;

9.3.4 fail to maintain fire and extended coverage insurance on insurable Common Areas on current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost); or

9.3.5 use hazard insurance proceeds for losses to any Common Areas for other than the repair, replacement or reconstruction of such Common Areas.

Section 9.4 Right to Examine Books and Records. Mortgagees, their successors or assigns, shall have the right to examine the books and records of the Association.

Section 9.5 Taxes and Insurance. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Lot and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Lot, and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Lot Owner.

Section 9.6 Insurance Proceeds and Condemnation Awards. No provision of this Declaration or any other document or instrument affecting the title to the Property, Common Areas, any Lot or the organization or operation of the Association shall give an Owner or any other party priority over any rights of first mortgagees of Lots within the Subdivision pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Common Areas.

ARTICLE X

NON-DEDICATED STREETS

Section 10.1 Use. All non-dedicated streets constructed within the Subdivision (including streets dedicated as public streets but not yet being maintained by a governmental body) are reserved as easements of public access for the common use of Owners (pursuant to the Roadway Declaration) 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 of Directors of the Association, as a 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.

Section 10.2 Snow Removal, Maintenance, Reconstruction or Resurfacing. The Association, at the cost and expense of the Association, shall provide snow removal from, maintenance to and resurfacing or reconstruction of any non-dedicated streets (including streets dedicated as public streets but not yet being maintained by a governmental body) or any storm water drainage facilities included as a part thereof or installed thereunder as it deems necessary or appropriate from time to time within its sole discretion.

ARTICLE XI

STORM WATER MANAGEMENT

Section 11.1 The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number 11-0415, as issued by the Division of Water Quality under NCAC 2H.1000.

Section 11.2 The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit.

Section 11.3 The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality.

Section 11.4 Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Water Quality.

Section 11.5 The maximum allowable built-upon area per lot is 2,846 square feet. This allotted amount includes any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone,

slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

Section 11.6 All runoff from the built-upon areas on the lot must drain into the permitted system. This may be accomplished through a variety of means including roof drain gutters which drain to the street, grading the lot to drain toward the street, or grading perimeter swales to collect the lot runoff and directing them into a component of the stormwater collection system. Lots that will naturally drain into the system are not required to provide these additional measures.

ARTICLE XII

USE RESTRICTIONS

Section 12.1 Land Use and Building Type: No numbered lot shall be used except for residential purposes. No structure shall be erected, placed, altered or permitted to remain on any such lot other than one detached single-family dwelling, a private garage for not more than three (3) cars, within a minimum of a one (1) car garage, which garage may contain living quarters for occupancy by domestic servants or family of the lot owner only, and such other outbuildings as may be reasonably appurtenant to the dwelling provided that the same are constructed in line with the general architectural design and construction standards used in the dwelling itself.

Section 12.2 Architectural Control: No building or structure shall be erected, placed or altered on any lot in said subdivision until construction plans and specifications, including a plan showing the location of said building on the lot have been approved by the Association as to quality of workmanship and materials, harmony with external design of existing buildings, and as to location with respect to topography and finished grade elevation.

Section 12.3 Dwelling Cost, Quality and Size: No single-family attached or detached dwelling unit shall be permitted on any such lot or lots which shall give to the improved lot or lots on which the said single-family attached or detached dwelling unit is constructed an appraised valuation of less than One Hundred Eighty Thousand and No/100 (\$180,000.00) Dollars; such valuation to be used upon cost levels prevailing at the date these covenants are recorded; it being the intention and purpose of this covenant to provide that all dwellings shall be of quality and workmanship substantially the same or better than that which can be produced on the date these covenants are recorded for the minimum value herein stated for the minimum permitted dwelling size.

No residence or dwelling unit shall be constructed which shall have a heated area living space of less than 2000 square feet. Heated area living space shall mean the ordinary living space in a house which is designated and constructed as being heated for regular living use in cold weather. In the computation of floor space, furnace room and exterior storage areas, garage and porches shall not be counted. No residence may be constructed without a garage. No residence may be constructed with a carport. Any plan for construction of a detached garage must have the prior approval of the Association, as set out in these Restrictive Covenants.

Section 12.4 Provisions Relating to Wetlands: All of the properties subject to these declarations, conditions, covenants and restrictions shall also be subject to the following Special Provisions Related to Wetlands. In developing the property, the Declarant has agreed with the State of North Carolina and the Department of the Army Corps of Engineers (pursuant to a

permit issued by the State of North Carolina and the Corps of Engineers) to restrict and prohibit any future filling and other detrimental activities in the wetlands areas which presently exist within the identified area of the property. Accordingly, all wetlands shown and delineated on the wetland survey plat dated February 9, 2011, and verified by the Corps of Engineers on February 9, 2011, shall be maintained in perpetuity in their natural or mitigated condition. No person or entity shall fill, grade, excavate, or perform any other land disturbing activities; nor cut, remove, or harm any vegetation; nor construct any structures, nor allow animal grazing or watering or any other agricultural use on such conversation area. Benign structures, such as pile-supported walkways, may be permissible only after reviewed and written consent is provided by the U.S. Army Corps of Engineers. The covenant is intended to ensure continued compliance with the mitigation conditions of authorizations issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, Action ID 201601702, and therefore may be enforced by the United States of America. This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it. A copy of the wetland delineation shall be provided to any Owner who shall be affected thereby.

Section 12.5 Building Location: The building line of any dwelling house or the buildings appurtenant thereto shall not be less than 30 feet from the lot line which the dwelling house fronts unless lot configuration disallows, in which case the builder must receive written variance from the developer in order to establish a different set back line. All interior and side yard set backs shall be 5 feet and no building shall be located within 20 feet of the rear property line.

With respect to corner lots, the building line of any dwelling house or unit of the building appurtenant thereto shall not be less than 30 feet from the street on which the dwelling house or unit fronts and 30 feet from any side street.

Section 12.6 Erection of Fences and Signs: No fence shall be erected on any lot closer to the front of the lot than the house's rear corner nearest to the street. No fence shall be built within any easement for utilities as set forth in these covenants. Fencing traversing a lot shall be parallel with the front line. In the event a house has already been established on the lot adjacent to the corner lot, no fencing shall be erected on the corner lot any closer to the front of the lot than the distance the front corner of the adjacent structure is from its front property line; in any event, fencing shall be no closer than the house's rear corner. Chain link fences of any type are not permitted.

No fences, including decorative split-rail fences, are permitted in the front yard of a lot.

Section 12.7 Illegal Activity: No illegal, noxious or offensive activity shall be permitted or carried on, on any part of said land, neither shall anything be permitted or done which is or may become a nuisance or a source of embarrassment, discomfort or annoyance to the neighborhood. No trash, garbage, rubbish, debris, waste material or other refuse shall be deposited or allowed to accumulate or remain on any part of said land, or upon any land or lands contiguous thereto. No fires or burning of trash, leaves, clippings or other debris or refuse shall be permitted on any part of said land without the required permits issued by the appropriate authority.

Section 12.8 Artesian Wells: No artesian wells may be drilled or maintained on any building lot without first obtaining the written consent of the Association. The central water supply system provided for the services of said land shall be used as the sole source of water for all water spigots and outlets within all buildings and improvements located on each building lot. No individual water supply system or well shall be permitted on the building lot except to supply water for irrigation purposes, swimming pools or other exterior use. All lots shall be subject to

services charges and fees and any and all assessments levied in connection with the central water supply system service to the respective subject lots.

Section 12.9 Animals and Livestock: No animals, livestock or poultry of any kind shall be raised, bred or kept on the property, except cats, dogs, and other common household pets and they shall not exceed two (2) of each, provided that they are not kept, bred or maintained for any commercial purposes. Household pets shall not roam freely; they must remain in the yard or, if not in the yard, on a leash.

Section 12.10 Automobiles, Etc: No automobiles, boats, campers or any other motor vehicle may be dismantled on said property. No mechanically defective automobile or currently unlicensed automobile shall be placed or allowed to remain on said property over ten (10) days. No junked cars shall be placed or allowed to remain on said property. Trailers, boats, campers and like recreational vehicles shall be permitted to be kept or stored upon a lot as long as all reasonable measures have been taken to make them as unseen as possible from the road.

Section 12.11 Obstructions: The Association shall have the right, but not the obligation, to remove or require the removal of any fence, wall hedge, shrub, bush, tree or other object, natural or artificial, placed or located on any building plot, if the location of the same will in the sole judgment and opinion of the Association obstruct the vision of a motorist upon any of the access ways.

Section 12.12 Regulate Traffic: The Association shall have the right, but not the obligation, from time to time to control and regulate all types of traffic on said access ways, including the right to prohibit use of said access ways by traffic which, in the sole discretion of the Association, would or might result in damage to said access ways or pavements or other improvements thereon, and the right, but not the obligation to control and prohibit parking on all or any part of said access ways.

Section 12.13 Type of Construction: No building or other improvement may be constructed with an exterior wall finish of concrete or cinder block type construction or shall be finished in asbestos siding shingles, vinyl or aluminum siding.

Section 12.14 Window Air Conditions: No window air conditioning units shall be installed in a building visible from the road which the building faces.

Section 12.15 Utility: All telephone, electric, gas, phone, cablevision lines and connections between the main utility lines and the residence and other buildings located on each building plot shall be located underground.

Section 12.16 Utility Company: The Declarant reserves the right to subject the real property in this entire subdivision to a contract with PWC, South River Electric, Time Warner Cable, Piedmont Natural Gas, Embarq or any other utility company, for the installation of underground electric cables and/or the installation of street lighting, either or both, of which may require a continuing monthly payment from the owner of the lot.

Section 12.17 Type of Residence: No trailer, basement, or any outbuilding of any kind, other than a guest house or servant's quarters, even if otherwise permitted hereunder to be or remain on a building lot, shall be used as a residence either temporary or permanently.

Section 12.18 Declarant or Builder Signs: Nothing contained in these covenants and restrictions shall prevent the Declarant; approved Builder, or any person designated by the Declarant, from erecting or maintaining such commercial, display signs or directional signs and

such temporary dwelling, model house and other structures as the Declarant may deem advisable for development purposes.

Section 12.19 Signs: No sign or signs other than a "For Sale," "for Rent" or directional sign shall be displayed within the Subdivision, and these signs shall not exceed five (5) square feet total area.

Section 12.20 Swimming Pools: No swimming pool shall be constructed on any lot unless the proposed location shall have been first approved in writing by the Association and said pool, with required fence, shall be built in accordance with all applicable County Zoning Ordinances and Regulations. Above ground pools are not permitted.

Section 12.21 Mail Boxes: No mail box or paper box or other receptacle of any kind for use in the delivery of mail or newspapers or magazines or similar material shall be erected or located, on any building lot unless size, location and design and type of material for said boxes or receptacles shall have been approved by the Association. Brick and similar encasements are not permitted to be built around mailboxes, as they create a permanent structure in the utility right of way.

Section 12.22 Approval of Plans: No construction shall begin on any lot, neither shall any building or other improvement be erected, placed or altered on any lot until the construction plans and specifications and plans showing location of the structure on the individual lot have been approved in writing by the Association. This approval shall be as to the quality of workmanship and materials, harmony of external design with existing structures, and as to the location with respect to topography and finished grade elevation. The Association may, but is not required to, delegate its duties under this paragraph to an architectural committee created for this purpose. Such assignment will be by a document recorded in the office of the Register of Deeds for Cumberland County, North Carolina.

Section 12.23 Radio or Television Aerials: Except as provided below, no radio or television aerial, antenna, or any other exterior electronic or electronic equipment or devised of any kind shall be installed or maintained on the exterior of any structure located on a building lot or any other portion of any building lot. A satellite dish, no greater than eighteen (18) inches in diameter may be installed, as long as it is not visible from the street. Every owner of a lot upon which construction is performed shall provide a dumpster for the purpose of collection and disposal of all construction debris for the duration of the project.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 13.1 Invalidity: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 13.2 Waiver: No provision contained in the Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 13.3 Captions: The caption herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

Section 13.4 Liberal Construction: The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a Planned Community under Chapter 47F of the North Carolina General Statutes. Throughout this Declaration, wherever appropriate, the singular shall include the plural and the masculine gender the feminine or neuter as the context permits or requires.

Section 13.5 Amendment: The covenants and restrictions of the Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years. The provisions of this Declaration may be amended upon the vote of sixty-seven percent (67%) of the membership qualified and voting in accordance with the Bylaws and subject to Article III, together with the consent if the Declarant, or its successor in interest. Notwithstanding any of the herein stated, the Declarant shall have the unfettered right to amend this Declaration without consent of the Class A membership so long as Class B membership exists.

Section 13.6 Enforcement: The Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration.

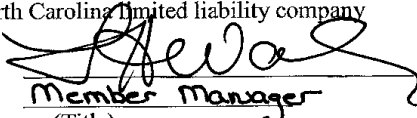
Section 13.7 Attorney's Fees: Should the Association employ counsel to enforce any of the forgoing covenants, conditions and reservations, or restrictions, all costs incurred in such enforcement, including reasonable attorney's fees, shall be paid by the Owner of such Lot or Unit and the Association shall have a lien upon such Lot or Unit to secure the payment of all costs and fees.

Section 13.8 Party Walls: The Property as of the date of recording has no party walls. In the event the Property is intended to be improved to include any party walls, this Declaration shall be resubmitted for approval in accordance with Chapter 27 of Fayetteville City Code.

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

THE VILLAGE AT ROCKFISH, LLC,
a North Carolina limited liability company

BY:


Member Manager
(Title)

STATE NORTH CAROLINA

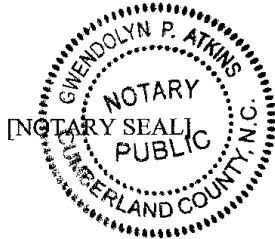
COUNTY OF CUMBERLAND

I, Gwendolyn P. Atkins, a Notary Public of Cumb County, State of North Carolina, certify that Lawrence H. Walsh, personally came before me this day and, being duly sworn, acknowledged that he is Member Manager of THE VILLAGE AT ROCKFISH, LLC, a North Carolina limited liability company, and that said writing was signed and sealed by him/her in behalf of said limited liability company by its authority duly given.

Witness my hand and official stamp or seal this 15 day of October, 2012.

My Commission Expires:
11-9-2015

Gwendolyn P. Atkins
Notary Public



(N.P. SEAL)

EXHIBIT A

Legal Description

Cumberland County

North Carolina

All of that land designated and known as "VILLAGE AT ROCKFISH, PHASE ONE,
SECTION ONE" as shown on that certain plat recorded in Plat Book 131, Page
99, Cumberland County Registry.

EXHIBIT "B"

Real Estate Subject to Annexation into Village At Rockfish

- a. Any real estate currently owned or subsequently purchased by the Declarant which is adjacent to the property described in Exhibit "A" or which is adjacent to any property then a part of Village at Rockfish pursuant to annexation under Article II of the Declaration.
- b. Any real estate described in the deed recorded at Deed Book 8821, Page 115, Cumberland County Registry.
- c. Any real estate purchased by Declarant or by KAS Developers, LLC from Linda S. Johnson, Barbara Smith, Mae Parsons, Tommy Woodell and Pamela H. Domanski pursuant to an Option to Purchase and Contract dated January 11, 2010 which Option to Purchase and Contract was for the land described in Deed Book 2028, Page 537, Cumberland County Registry, the remainder of which land includes, without limitation, the land described in Cumberland County Tax Parcel Number 0443-37-0551 (61.72 acres Elmore and Evans land).