Register of Deeds
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Durham County, NC
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Tonya Redfearn

MAIL AFTER RECORDING TO: J. Haydon Ellis
P.O. Box 2505
Fayetteville, NC 28302

THIS INSTRUMENT WAS
PREPARED BY: J. Haydon Ellis
Hutchens Law Firm LLP

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PAGE TOWNES SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PAGE TOWNES SUBDIVISION (this "Declaration") is made and entered into this the ___ day of September, 2024, by McKee Homes, LLC, a Delaware limited liability company, hereinafter referred to as "Declarant" or "Developer."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Durham County, North Carolina, having PIN 0757087889 and REID 236257 (the "Property"), and which is more particularly described as:

BEING all of Lot 2, containing approximately 6.251 acres, and Lot 3, containing approximately 0.790 acres, as shown on a plat entitled "RECOMBINATION PLAT FOR FIRST PREMIER PROPERTIES", dated October 16, 2008, prepared by Murphy Geomatics and record in Plat Book 183, Page 17, Durham County Registry; and,

WHEREAS, Declarant desires to provide for the preservation of the values and amenities and for the maintenance of the common area in said Property and under a general plan or scheme of improvement desires to subject said property to the following easements, restrictions, covenants, and conditions (hereinafter collectively referred to as "Restrictions"), which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

NOW, THEREFORE, Declarant hereby declares that the real property depicted on the above-described plats shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to this Declaration and to the following Restrictions. This Declaration and the Restrictions shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in and to the real property or any part or parts thereof subject to this Declaration.

ARTICLE I
DEFINITIONS

Section 1. "Additional Property" shall mean and refer to any lands which are now owned or may be hereafter acquired or developed by Declarant, in addition to the above described Property, and annexed to and made a part of the Development (as hereinafter defined) pursuant to Article VIII hereof.

Section 2. "Architectural Committee" shall mean the committee composed of Declarant, as long as Declarant owns at least one lot within the Property and thereafter, three (3) or more representatives appointed by the Board. The Architectural Committee's role is to approve alterations and improvements as set forth herein.

Section 3. "Association" shall mean and refer to Page Townes Owners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

Section 4. "Assessments" shall mean the Annual, Special, Insurance, Ad Valorem and Working Capital Assessments defined in Article VI hereof.

Section 5. "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

Section 6. "Common Properties" or "Common Areas" shall mean and refer to those tracts of land with any improvements thereon which are deeded or leased to the Association. Both terms will include any stormwater easements, retention ponds, open space, privacy fence, private streets, and any personal property acquired by the Association. All Common Area is to be devoted to and intended for the common use and enjoyment of the Owners, persons occupying dwelling places or accommodations of Owners on a guest or tenant basis, and visiting members (to the extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association; provided, however, that any lands which are leased by the Association for use as Common Area shall lost their character as Common Area upon the expiration of such Lease. Reference to Common Area in these Covenants does not imply or guarantee that the Property affected by these Covenants will have any Common Area.

Section 7. "Common Expenses" shall mean and include:

a) All sums lawfully assessed by the Association against its members;

b) Expenses of administration, maintenance, repair, or replacement of the Common Area, including, without limitation, all labor, services, common utilities, materials, supplies, equipment, costs incurred in acquiring a Lot pursuant to a judicial sale, legal, accounting or managerial fees, and all expenses in connection with the Association's responsibilities under any stormwater management agreement (the "Stormwater Agreement") affecting the Property;

c) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws;

d) Hazard, liability, or such other insurance premiums as the Declaration of the Bylaws may require the Association to purchase or as the Association may deem appropriate to purchase;

e) Ad valorem taxes and public assessment charges lawfully levied against Common Area;

f) The expense of the maintenance of drainage and utility easements and facilities located therein which are within the boundaries of the Property;

g) The expense of maintenance of any roads, streets, easements, landscaping, amenities, taxes or any other expense item associated with any Common Property not located on the Property but permitted to be used by the members of the Association by any adjoining landowner, association or other entity pursuant to any cross-easement, cross-access or other agreement by the Association with the adjoining landowner;

h) Payments into any escrow account required under any Stormwater Agreement, which may include funding of the escrow account prior to a transfer of maintenance and operation responsibilities from Declarant to Association;

i) Any other expenses determined by the Board of Directors or approved by the members to be common expenses of the Association.

Section 8. "Declarant/Developer" shall mean and refer to McKee Homes, LLC, a Delaware limited liability company, and any successor or assign designated as Declarant in a document recorded with the Durham County Register of Deeds executed by the immediately preceding Declarant.

Section 9. "Covenants" or "Declaration" shall mean this instrument as it may be from time to time amended, supplemented, modified or incorporated by reference.

Section 10. "Development" shall mean the Property.

Section 11. "Lot" or "Lots" shall mean and refer to any numbered plot or parcel of land shown upon any recorded plat map of the Property, as such map or maps may be from time to time recorded, amended or modified. As used herein, the terms Lot, Lots, and Townhome Unit may be used interchangeably.

Section 12. "Member" shall mean and refer to every person or entity entitled to membership in the Association.

Section 13. "Offensive or Noxious" activity or behavior shall include but not be limited to a public nuisance or nuisance per se and shall also include any behavior or activity which is inconsistent with both the reasonable pleasurable use of the Property area by substantial number of the residents and overnight guests and their reasonable expectations of permanent habitation, vacation meeting, working, recreating, or enjoying sports, music, food, natural surroundings, and entertainment, free of excessively noisy behavior grossly disrespecting the rights of others, flashing or excessively bright lights, racing vehicles, significantly loud radio, hi-fi, electronic music distractions, and other unreasonable behavior curtailing the reasonable pleasure and use of the facilities within or adjacent to the Property. Public musical or other entertainment, parades, concerts, festivals, carnivals, competitions or shows conducted under permit from the Declarant shall not constitute offensive or noxious activity of behavior unless such permit is withdrawn by the Declarant, or its terms and conditions violated.

Section 14. "Owner" shall mean and refer to the owner as shown by the records in the Register of Deeds of Durham County, North Carolina, whether it be one or more persons, firms, associations, corporations, or other legal entitles, including the Declarant/Developer, of fee title to any Lot, but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assigns, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner. In the event that there is recorded in the Office of the Register of Deeds, a long-term contract of sale covering any Lot or parcel of land within the Property, the purchaser under said contract of such Lot or parcel of land shall be the Owner and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond twelve (12) months from the date of the contract, and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property.

Section 15. "Period of Declarant Control" means the period commencing on the date hereof and continuing until the earlier of (i) December 31, 2050; (ii) when Declarant has voluntarily terminated its Declarant Rights hereunder in writing; or (iii) when Declarant no longer owns any lots in the Subdivision or any property within a two (2) mile radius thereof.

Section 16. "Plat" or "Plats" shall mean any recorded subdivision plat map of the Property, as such map or maps may be from time to time recorded, amended or modified:

Section 17. "Property," "Properties" or "Subdivision" shall mean and refer to certain property in Durham County, North Carolina, having PIN 0757087889 and REID 236257, and which is more particularly described as:

. BEING all of Lot 2, containing approximately 6.251 acres, and Lot 3, containing approximately 0.790 acres, as shown on a plat entitled "RECOMBINATION PLAT FOR FIRST PREMIER PROPERTIES", dated October 16, 2008, prepared by Murphy Geomatics and record in Plat Book 183, Page 17, Durham County Registry

The Property shall also include any future sections of Page Townes Subdivision as the same may be developed from time to time, if any, except that future sections shall become subject to these Covenants only from and after the recording of the plat or plats for said future section(s) and the recording of a supplemental declaration which incorporates by reference this Declaration and which expressly makes the new section(s) subject to these Covenants, or portions of the same. The supplemental declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of Declarant, but such modification shall have no effect on all platted land shown on the Plat.

Section 18. "Townhome Unit" or "Unit" shall mean and refer to the individual family townhome that has been or will be constructed upon a Lot.

ARTICLE II
PROPERTY RIGHTS AND EASEMENTS

Section 1. Owners' Property Rights and Easement of Enjoyment in the Common Area. Every Owner shall have and is hereby granted a right and easement of enjoyment in and to the Common Area, if any, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The Association may make and amend reasonable rules and regulations governing use of the Common Areas by the Owners, and the Owner's guests or invitees;

(b) The Association, acting through the Board of Directors, shall have the right to grant easements, rights of way, licenses and similar interests over any part of the Common Areas for any lawful purpose which it determines, in its own discretion, to be consistent with the interest of the Association provided it is approved by two-thirds (2/3) of the voting membership of the lot owners;

(c) The right of the Association to suspend any Owner's voting rights and any Owner's right to use the Common Areas and facilities during the time period in which any assessment against said Owner's Lot remains unpaid;

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the voting members agreeing to such dedication or transfer is recorded; and,

(e) Subject to other provisions of this Declaration applicable to usage of the Common Areas.

Section 2. Easements in Favor of Declarant and the Association. The following easements are reserved to Declarant and the Association, their successors and assigns:

(a) All easements in the portion of the Development constituting the Common Area and that portion of each Lot not occupied by a structure, which are necessary for the installation and maintenance of utilities and drainage facilities including swales, drainage ditches, and street lights. Declarant and the Association shall have the right to go upon the ground with men and equipment to erect, maintain, inspect, repair and use electric and telephone lines, wires, cables, conduits, sewers, water mains, street lights, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in or over each Lot and such other areas as are shown on the plat of the Property recorded or to be recorded in the office of the Register of Deeds of Durham County; the right to cut drain ways, swales and ditches for surface water whenever such action may appear to the Declarant or the Association to be necessary in order to maintain reasonable standards of health, safety and appearance; the right to cut any trees, bushes or shrubbery and to mow any grass; the right to make any grading of the soil, or to take any other similar action reasonably necessary to provide

economical and safe utility installation and to maintain reasonable standards of health, safety and appearance; and the right to locate wells, pumping stations, and tanks within residential areas, or upon any Lot with the permission of the Owner of such Lot. No structures or plantings or other material shall be placed or permitted to remain upon such easement areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion problems. Provided fences along the rear lot line will be permitted provided the fence is located within 18 inches of the rear lot lines and does not impede or restrict any water flow through a drainage ditch or swale.

(b) Easements over all private streets, if any, access easements, and Common Area within the Development as necessary to provide access, ingress and egress between different parts of the Property.

(c) The Association shall have the right to place reasonable restrictions upon the use of the Association's roadways, including but not limited to the types and sizes of vehicles permitted to use said streets, the maximum and minimum speeds of vehicles using said streets, all necessary traffic and parking regulations, and maximum noise levels of vehicles using said streets.

(d) Further, some Lots may be subjected to landscape easements for the purpose of maintaining specified plantings, levels of maintenance, signs, walls, fences, and other decorative structures. The operation of such easements shall be governed by provisions in this Declaration, other recorded instruments and by policies duly enacted by the Association and pursuant to its authority set forth in this Declaration.

(e) Easements are also reserved over those portions of the Common Area and individual Lots that may be necessary or required to accommodate overhanging eaves or other cantilevered construction which may encroach upon the Common Area or upon individual Lots.

Section 3. Utilities Reserved by Declarant. Declarant reserves the right to subject the Property to a contract with public utility provider(s) for the installation of overhead and/or underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to such public utility provider by the owner of each Lot. Declarant may devote any Lot or portion thereof, not already sold, for any construction and uses which it, in its discretion, deems necessary in order to provide the subdivision with utilities.

During the Period of Declarant Control, Declarant reserves, for itself and its employees, agents, and its successors and assigns, an easement upon and a right of ingress, egress and regress on, over and under the Property for the purpose of constructing and maintaining such roadways, water, sewer, gas, storm water, drainage and retention, telephone, cable televisions and electric and other utility facilities to the extent required by any applicable governmental entity or deemed by the Declarant to be necessary or convenient for the development, use and enjoyment of the Properties and the Common Area and the conduct of construction, sales and marketing activities. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any grading of the soil, relocate utility facilities within said easement and take any other similar action that it deems reasonably necessary or appropriate.

Section 4. Utility Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage, or which may obstruct or retard the flow of water.

Section 5. Other Easements. The following easements are granted by Declarant to others:

(a) An easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services, to enter upon all Lots and Common Areas in the performance of their duties.

(b) In the event of an emergency originating in or threatening any Lot or the Common Areas, regardless as to whether any Lot Owner is present at the time of such emergency, the

Association or any other person authorized by it shall have the right to enter any Lot for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the Lot Owners, and such right of entry shall be immediate.

(c) An easement is hereby established over the Common Area and every Lot within the Property for the benefit of applicable governmental agencies for installing, removing, and reading water meters, maintaining and replacing water and sewer facilities, and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, garbage collection and the delivery of mail.

Section 6. Nature of Easements. All easements and rights described herein are perpetual easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the Declarant and the Association, their successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the Property, or any part or portion thereof, regardless of whether or not reference is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

Section 7. Prohibition of Permanent Structures Within Easements. No permanent structure except permitted fences allowed herein may be built within those easements shown on any recorded plat of the Property, or described in the Declaration, unless constructed by Declarant. Owners may not plant trees, shrubs, flowers and grass in those easements except with written approval of the Declarant or the Architectural Control Committee. Owners shall be responsible for the cost of removal, repair and/or replacement of any non-permanent structures which the Association deems necessary to remove to allow for maintenance, servicing, repair or replacement within those easements. Owners shall also be responsible for the cost of the removal of any permanent structure constructed within those easements, if removal is required by the Association. Any costs incurred by the Association for removal, repair and/or replacement of structures or vegetation in the easement areas shall be assessed to the Owner of the related Lot.

ARTICLE III
RIGHTS OF DECLARANT

The Declarant shall have, and there is hereby reserved to the Declarant, the following rights, powers and privileges which shall be in addition to any other rights, powers and privileges reserved to the Declarant herein:

Section 1. Development Activities. During the Period of Declarant Control, Declarant shall have the right to conduct development, construction, marketing and customer service operations within the Development in a customary and reasonable fashion. This includes the right to maintain construction and sales offices and model homes on Lots which Declarant owns and to park vehicles thereon, the right of access over the streets and rights of way within the Development by construction and supply vehicles and the right to store materials and equipment related to such land development and construction on Lots owned by Declarant, and the right to make and reproduce photographs of the Common Area and of private homes in marketing, advertising, and public relations efforts. However, it shall be incumbent upon those exercising these reserved rights to conduct their activities in ways respectful of the comfort and safety of the occupants of Lots in the Development.

Section 2. The Architectural Committee. All duties and responsibilities conferred upon the Architectural Committee by this Declaration or the Bylaws of the Association shall be exercised and performed by the Declarant or its designee during the Period of Declarant Control and thereafter by the Architectural Committee appointed by the Board. If the Board has not appointed the members of the Architectural Committee, the Board shall act as the Architectural Committee.

Section 3. Plan of Development. The right to change, alter or redesignate the allocated planned, platted, or recorded use or designation of any of the lands constituting the Development including, but not limited to, the right to change, alter or redesignate road, utility and drainage facilities and easements and to change, alter or redesignate such other present and proposed amenities or facilities as may in the sole judgment and discretion of Declarant be necessary or desirable. The Declarant hereby expressly reserves unto itself, its successors and assigns, the right to re-plat any one (1) or more Lots shown on the plat of any subdivision of the Property or

Additional Property in order to create one or more modified Lots; to further subdivide tracts shown on any such subdivision plat into two or more Lots; to recombine one or more tracts or Lots or a tract and Lots to create a larger tract: to eliminate from this Declaration Lots that are not otherwise buildable or are needed for access or are needed for use as public or private roads or access areas, whether serving the Development or other property or are needed for Common Areas or amenities, and to take such steps as are reasonably necessary to make such re-platted Lots or tracts suitable and fit as a building site, access area, roadway or Common Area.

Section 4. Declarant Control of the Association. During the Period of Declarant Control, the Declarant or its designee(s) shall be the only member(s) of the Board of Directors. The Declarant can turn over control to the Association at any time after the sale of the first Lot in the sole discretion of the Declarant.

Section 5. Amendment of Declaration By Declarant or Board Without Membership Approval. This Declaration may be amended or supplemented without Member approval by the Declarant, or the Board of Directors, as the case may be, as follows:

(a) In any respect, prior to the sale of the first Lot;

(b) To the extent this Declaration applies to Additional Property;

(c) To correct any obvious error or inconsistency in drafting, typing or reproduction;

(d) To qualify the Association or the Property and Additional Property, or any portion thereof, for tax-exempt status;

(e) To include any platting changes as permitted herein;

(f) To conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or any Additional Property or to qualify the Property or any Additional Property or any Lots and Improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of the United States Government or the State of North Carolina, regarding purchase or sale of such Lots and Improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. Notwithstanding anything else herein to the contrary, only the Declarant shall be entitled to amend this Declaration pursuant to this Section during the Period of Declarant Control.

Section 6. Right to Transfer Declarant Rights. Any or all of Declarant's rights or obligations set forth in this Declaration or the Bylaws may be transferred in whole or in part to other persons. No such transfer or assignment shall be effective unless evidence by a recorded document. The foregoing sentence shall not preclude Declarant from permitting other persons to exercise, on a one-time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety. In such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

Section 7. Dues and Assessments. Declarant shall not be responsible for paying any dues or Assessments.

Section 8. Assignment by Declarant. Any or all of the rights, powers, easements, functions and obligations reserved or given to the Declarant in this Declaration may be assigned to the Association, and the Association shall accept and assume responsibility for any or all such rights, powers, easements, functions and obligations when requested by the Declarant. Any such assignment or transfer shall be made by a recorded document, executed by both the Declarant and the Association, and the Association shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by the Declarant. The Declarant, but not the Association, shall thereupon be released from such obligations and duties.

ARTICLE IV
ARCHITECTURAL CONTROL

No residence or other building, and no fence, wall, utility yard, driveway, swimming pool or other structure or improvement, regardless of size or purposes, whether attached to or detached from the main residence, shall be commenced, placed, erected or allowed to remain on any building Lot, nor shall any addition to or exterior change or alteration thereto be made, unless and until building plans and specifications covering the same, showing the nature, kind, shape, height, size,

materials, floor plans, exterior color schemes with paint samples, location and orientation on the building Lot and approximate square footage, construction schedule, and such other information as the Declarant shall require, have been submitted to and approved in writing by the Declarant, during the Period of Declarant Control, and thereafter by the Board of Directors, or by an architectural committee composed of three (3) or more representatives appointed by the Board. The Declarant, during the Period of Declarant Control, shall have the absolute and exclusive right to refuse to approve any such building plans and specifications and Lot-grading and landscaping plans which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons connected with future development plans of the Declarant of said land or contiguous lands. In passing upon such building plans and specifications and Lot-grading and landscaping plans, the Declarant may take into consideration the suitability and desirability of the proposed construction and of the materials of which the same are proposed to be built to the building Lot upon which it proposes to erect the same, the quality of the proposed workmanship and materials, the harmony of external design with the surrounding neighborhood and existing structures therein, and the effect and appearance of such construction as viewed from neighboring properties. In the event the Declarant, during the Period of Declarant Control, and thereafter the Board of Directors or its designated committee fails to approve or disapprove such building plans and specifications within thirty (30) days after the same have been submitted to it as required above, approval shall be conclusively presumed and the provisions of this paragraph shall be deemed to have been complied with. However, no residence or other building, structure or improvements which violates any of the covenants and restrictions herein contained or which is not in harmony with the surrounding neighborhood and the existing structures therein shall be erected or allowed to remain on any part of a Lot.

ARTICLE V
HOMEOWNERS' ASSOCIATION

Section 1. Formation of Association. PAGE TOWNES OWNERS ASSOCIATION, INC. is a nonprofit corporation organized and existing pursuant to the laws of the State of North Carolina for the purpose of establishing an association for the Owners of Lots to operate and maintain the Common Areas and to provide any other services provided in this Declaration or agreed to by a majority of the Members.

Section 2. Membership. Every Lot Owner shall be a Member of the Association. The Declarant acting through its designated officers, employees and agents shall be a Member of the Association. When more than one person is the Owner of any Lot, all such persons shall be Members, subject to such limitations and fees established by the Declarant and Board from time to time.

Section 3. Voting Rights. During the Period of Declarant Control, the Declarant shall be entitled to one vote for each Lot owned by the Declarant and one vote for each Lot owned by another person. After the Period of Declarant Control, each Member shall be entitled to one vote for each Lot owned by such Member.

When any Lot entitling the Owner to membership is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants-in-common, tenants-in-partnership or in any other manner of joint or common ownership or if two or more persons or entities have the same fiduciary relationship respecting the same lot, then all such persons shall be Members. The vote for such Lot shall be exercised as said members determine amongst themselves, but in no event shall more than one vote be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

Section 4. Cumulative Voting Prohibited. Each Owner shall be entitled to as many votes as equals the number of votes he is ordinarily entitled to multiplied by the number of Directors to be elected, but may not cast all of such votes for any one (1) Director and must distribute them among the number to be voted for, and all votes must be cast in whole numbers and not fractions thereof. It is the intent of this Section to prohibit cumulative voting.

Section 5. Composition of the Board. During the Period of Declarant Control, the Declarant or its designee(s) shall be the only member(s) of the Board of Directors. The Declarant can turn over control to the Association at any time after the sale of the first Lot in the sole discretion of the Declarant. After the Period of Declarant Control, the Association shall be governed by a Board of Directors consisting initially of three (3) persons, with the number in subsequent years to be determined as provided for in the By-Laws of the Association.

Section 6. Powers, Privileges, Rights and Obligations. In addition to the rights and powers granted to the Association in its charter and to the rights and powers with regard to assessments set forth in Article VI of this Declaration, the Association shall have and possess and shall perform and exercise the following powers, privileges, rights and duties, subject, however, to the rights of the Declarant contained in Article VI hereof:

(a) The Association shall be entitled to make and amend the bylaws and the rules and regulations of the Association;

(b) The Association shall provide maintenance for the Common Area and improvements and additions thereto, including but not limited to, private streets, storm drainage systems, common landscaping, street lighting, retention pond, and perimeter fencing, street trees and perimeter buffers and the cost of such maintenance, repairs and replacements shall be paid for out of the assessments provided for in Article VI; provided, however, that in the event that any of the above activities are necessitated by the willful act or active or passive negligence of any Owner, his family, guests, invitees or tenants, or is caused by fire, wind, rain, blowing water, lightening, smoke or other hazard or casualty, and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the Board of Directors of the Association, the cost of the same shall be the personal obligation of the Owner and if not paid to the Association upon demand, may be added to the annual assessment levied against said Owner's Lot. In the event an Owner neglects or otherwise refuses to maintain his or her Lot, house and other accoutrements in a state or repair consistent with the beauty and welfare of the remaining area, including but not limited to painting of the exterior, then and in that event, the Board of Directors or Architectural Committee may effect such maintenance, repairs or replacement, and the cost of such maintenance, repairs and replacements shall be added to and become a part of the assessment to which such lot is subject pursuant to Article VI.

(c) The Association may engage in such other activities as authorized by a majority of the Members.

(d) After notice and opportunity to be heard, the Association may impose reasonable fines and/or suspend the voting rights and privileges or service provided by the Association (except access to lots) for reasonable periods for violations of the bylaws and rules and regulations of the Association.

(e) The Association may mortgage or convey the Common Areas, or dedicate or transfer all or part of the Common Areas, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by at least two-thirds (2/3) of the Members.

(f) The Board of Directors on behalf of the Association, as a common expense, may at all times keep the Common Areas and other property of the Association, if any, insured against loss or damage by fire or other hazards and other such risks, including, but not limited to directors' liability and public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect such property, which insurance shall be payable in case of loss to the Association for all Members. The Association shall have the sole authority to deal with the insurer in the settlement of claims. Such insurance shall be obtained without prejudice to the right of each Member to insure his personal property for his own benefit at his own expense. In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by Members or their mortgagees.

(g) All other powers which are allocated to the owners association under N.C. Gen. Stat. § 47F-3-102 are hereby incorporated by reference as if fully set out herein and in the event of any conflict between the provisions in this Declaration and those set forth in N.C. Gen. Stat. § 47F-3-102, the provisions of N.C. Gen. Stat. § 47FF-3-102 shall prevail.

Section 7. Stormwater Management Obligations; Hold Harmless; Release of Liability of Declarant.

(a) All duties, obligations, rights and privileges of the Declarant under any water, sewer, storm water, erosion control and utility agreements, easements and permits for the Planned Community with municipal or governmental agencies, or public or private utility companies, or other third-parties, shall be the duties, rights, obligations, privileges and the responsibility of the Association, notwithstanding that such agreements, easements or permits have not been assigned or the responsibilities thereunder specifically assumed by the Association. During the Period of Declarant Control the Declarant shall be authorized on behalf of the Association to execute any documents required or requested by appropriate governmental agencies in furtherance of the covenant.

ARTICLE VI
COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay the Association the following assessments (collectively the "Assessments"):

(a) Annual Assessments;
(b) Special Assessments for Capital Improvements;
(c) Insurance Assessments;
(d) Ad Valorem Tax Assessments; and
(e) Working Capital Assessments.

The Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the respective Lot against which the Assessments are made. Each such Assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them. Provided, however, the Declarant shall not be required to pay any fees, dues, working capital, or annual assessments on any lot owned by it during the Period of Declarant Control.

Each Owner covenants, for himself, his heirs, successors and assigns, to pay each Assessment levied by the Association on the Lot described in such conveyance to him within ten (10) days of the due date as established by the Board, and further covenants that if said assessment shall not be paid within thirty (30) days of the due date, the payment of such assessment shall be in default and the amount thereof become a lien upon said Owner's Lot as provided herein and shall continue to be such lien until fully paid.

Section 2. Purpose of Annual Assessment. The Annual Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and residents of the Property and for the improvement and maintenance of the Common Areas and any Limited Common Areas. The funds arising from said assessments or charges, may be used for any or all of the following purposes: operations, maintenance and improvement of the Common Areas, and any Limited Common Areas, including payment of utilities, enforcing this Declaration, payment of any sums due under any Stormwater Agreement, paying taxes, insurance premiums, legal and accounting fees and governmental charges, establishing working capital, and in addition, doing any other things necessary or desirable in the opinion of the Association to maintain and to keep the Common Areas and Limited Common Areas in good operating order, condition and repair.

Section 3. Annual Assessments. The annual assessment for Common Expenses shall be determined on an annual basis in accordance with the Association budget. The Association, acting by and through its Board of Directors, shall have the fiduciary discretion to adjust the annual assessment for Common Expenses on any annual (or more frequent) basis, as reasonably necessary; and shall have the authority to determine when such assessments shall be due and payable. Notwithstanding anything to the contrary herein, it is understood and agreed that the Declarant and/or any building companies having common ownership with Declarant, shall be fully exempt from any and all assessments and/or start-up fee requirements as set forth herein.

Section 4. Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to the year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas and any Limited Common Areas, including but not limited to all utility rights of way, drainage easements or any other easements for the benefit of the lot owners or the association and fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Replacement Reserve. Out of the Assessments, the Board may create and maintain a reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Properties which the Association may be obligated to maintain.

Section 6. Insurance Assessment. All premiums on insurance policies purchased by the Board of Directors or its designee pursuant to Article V and any deductibles payable by the Association upon loss shall be a common expense, and the Association may in any assessment year levy against the Owners equally an "Insurance Assessment," in addition to the Annual Assessments provided for under Section 3 above, which shall be in an amount sufficient to pay the annual cost of all such deductibles and insurance premiums not included as a component of the Annual Assessment.

Section 7. Ad Valorem Tax Assessments. All ad valorem taxes levied against the Common Areas, if any, shall be a common expense, and the Association may in any assessment year levy against the Owners equally an "Ad Valorem Tax Assessment", in addition to the Annual Assessments provided for under Section 3 above, which shall be in an amount sufficient to pay such ad valorem taxes in such year not included as a component of the Annual Assessment.

Section 8. Working Capital Assessments. Upon the closing of any sale of any Lot by Declarant to a purchaser, and only upon such initial sale, the Owner shall pay to the Association a one-time initial capital contribution in the amount of $1,500.00 OR some lower reasonable amount which may be set by the Declarant during the Period of Declarant Control, and the Board thereafter. Half of the initial capital contribution shall go towards the reserve fund and half shall go towards working capital. Amounts paid into the working capital fund are not to be considered as advance payment of the Annual or any other assessments. Any working capital funds remaining after the last Lot has been sold by Declarant shall be transferred to and become part of the general funds of the Association, in the discretion of the Board of Directors.

Section 9. Notice and Quorum For Any Action Authorized Under Section 3 and 4. Written Notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all Owners not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be fifty percent (50%) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 10. Uniform Rate of Assessment. The Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, provided, however, that Declarant shall not be obligated to pay any annual or special assessments on any Lot owned by Declarant.

Section 11. Commencement of Assessments. Except as otherwise provided in Article VI, Section 1, Assessments for each Lot shall commence upon the date of acceptance by an Owner of a deed from Declarant.

Section 12. Effect of Nonpayment of Assessments and Remedies of the Association. Any Assessment or installment thereof not paid within thirty (30) days after the due date shall be delinquent, in default and shall bear interest from the due date at the highest rate allowable by law or eighteen percent (18%) per annum, whichever is lower. The Association may bring an action at law against the Owner personally obligated to pay the same plus interest, costs, late payment charges and reasonable attorneys' fees, or foreclose the lien against the Lot. No Owner may waive

or otherwise escape liability for the Assessments provided for herein by non-use of the Common Properties or abandonment of his Lot.

Section 13. No Offsets. All Assessments and other amounts payable to the Association shall be payable in accordance with the provisions herein or the Associations By-Laws, and no offsets against such Assessments or other amounts shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers.

Section 14. Lien for Assessments. The Association may file a lien against a Lot when any Assessment levied against said Lot remains unpaid for a period of 30 days or longer.

(a) The lien shall constitute a lien against the Lot when and after the claim of lien is filed of record in the office of the Clerk of Superior Court of the county in which the Lot is located. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. Fees, charges, late charges, fines, interest, and other charges imposed are enforceable as assessments.

(b) The lien under this section shall take priority over all liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of lien in the office of the Clerk of Superior Court, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot.

(c) The lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing of the claim of lien in the office of the Clerk of Superior Court.

(d) Any judgment, decree, or order in any action brought under this Article shall include costs and reasonable attorneys' fees for the prevailing party.

(e) Where the holder of a first mortgage or deed of trust of record, or other purchaser of a Lot obtains title to the Lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors and assigns shall not be liable for the assessments against the Lot which became due prior to the acquisition of title to the Lot by such purchaser. The unpaid assessments shall be deemed to be Common Expenses collectible from all of the Lot Owners including such purchaser, its heirs, successors and assigns.

(f) A claim of lien shall set forth the name and address of the Association, the name of the record Owner of the Lot at the time the claim of lien is filed, a description of the Lot, and the amount of the lien claimed.

Section 15. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage and ad valorem taxes on said Lot. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer, but shall not abate the personal obligation of the prior Owner. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

Section 16. Exempt Property. Any portion of the Property dedicated to, and accepted by, a local public authority and any portion of the Property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the Assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said Assessments.

Section 17. Budget Deficits During Development Period. Declarant may, during the Period of Declarant Control, advance funds to the Association to satisfy the deficit, if any, in any fiscal year between the actual operating expenses of the Association (exclusive of any allocation for capital reserves) and the annual and special assessments for such fiscal year. Such advances shall be evidenced by promissory notes from the Association in favor of Declarant and shall be paid back to Declarant if and to the extent that sufficient funds are generated by assessments in

future years until such time as Declarant is repaid in full. Declarant may, but is not obligated to, forgive any promissory notes from the Association made pursuant to this Section 17.

ARTICLE VII
RESTRICTIONS

Section 1. All Lots shall be used for residential purposes only and shall not be used for any business or commercial purposes; provided, however, that Declarant reserves the right to use any Lot and any improvements thereon owned by Declarant (or an approved builder) as a model home with sales office. Group homes are prohibited.

Section 2. No sign or signs other than "For Sale" or "For Rent" sign shall be displayed on any Lot, except as specifically allowed by N.C.G.S §47F-3-121.

Section 3. No chain link, wire, or concrete block fences shall be permitted on any Lot, except as erected in common space by Declarant. No fence shall be erected closer to any street line than the rear corner of the house. No fence shall exceed six feet (6') in height. Rear fences must be solid white vinyl, not to exceed six feet (6') For all wooden fences, the finished side must face the exterior of the Lot and the bracing must be facing the interior of the Lot. Each Lot Owner shall be responsible for the maintenance fences on their Lot.

Section 4. No transmission antenna of any kind may be erected anywhere on a Lot without the prior written consent of the Architecture Committee. No direct broadcast satellite ("DBS") antenna or multi-channel multi-point distribution services ("MMDS") antenna larger than one (1) meter in diameter may be placed, allowed or maintained upon any Lot. A DBS or MMDS antenna one (1) meter or less in diameter or television broadcast service antenna may only be installed in accordance with Federal Communication Commission ("FCC") rules and the rules and regulations of the Association as authorized by the FCC, as both may be amended from time to time. HAM radios, two way radios and other hobby or professional radio communication transmission equipment are prohibited.

Declarant of the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus of any size for a master antenna, cable, or other communication system for the benefit of all or a portion of the Property.

Section 5. Parking. No part of the Townhome Development may be used for the parking of any trailer (boat trailer, vehicle trailer, motorcycle trailer or other type of trailer), mobile home, recreational vehicle, camper, boat, or any exclusively commercial vehicle (collectively, "Special Vehicles"). Operative vehicles, other than Special Vehicles, used by a resident of a Lot as a primary source of transportation may be parked in the Townhome Development; however, the residents of any one Lot may not collectively park more than two (2) operative vehicles outside of such Lot's garage in the Townhome Development, without the express written consent of the Association. Inoperable vehicles may not be parked within the Townhome Development. No automobile or machine-related maintenance and/or repairs may be performed on the Townhome Development. If a Special Vehicle is owned by a relative or guest of a Lot Owner who is visiting from out of town, then such Special Vehicle may be parked in the Townhome Development in a location designated by the Association, but not to exceed seven (7) consecutive days in any 6-month period.

Each improved Townhome Lot shall have one garage. For aesthetic and crime prevention purposes, the Lot Owners shall keep their garage doors closed at all times, except when vehicles (or personal items) are being moved. In no event shall garage doors be left open overnight. No overnight parking is permitted along the streets of the Townhome Development, unless the Association provides advance written permission. In addition, no commercial or loading vehicles shall be parked overnight in the Townhome Development.

Vehicles, whether owned by a Lot Owner or not, parked in violation of any part of this Declaration or in violation of any Rules or Regulations, shall be towed away (or mobilized) upon the request of the Association and stored at the Owner's risk and expense. By parking in the Townhome Development, the Owner of the vehicle hereby waives any claim against the Association resulting directly or indirectly out of any such towing.

The Association reserves the right to issue decals for authorized vehicles within the Townhome Development, for security and enforcement purposes; and upon issuance of such decals, all Lot Owners, and their tenants and authorized residents and guests, shall promptly

display such decals. The Association shall have the right to charge a reasonable administrative and/ or replacement fee, for all such decals.

Section 6. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or similar type of structure shall be placed, erected or allowed to remain on any Lot without the written consent of Declarant, its successors or assigns. Nor shall any structure of a temporary character be used as a residence, temporarily, permanently or otherwise.

Section 7. Nothing contained in these Covenants shall prevent the Declarant or any person designated by the Declarant from erecting or maintaining such commercial and display signs and such temporary dwellings, model house and other structures as the Declarant may deem advisable for development purposes.

Section 8. Each Lot Owner covenants and agrees that he/ she will keep his/ her Lot in good condition and repair; and the dwelling, improvements, and landscaping located thereon shall be kept in presentable condition at all times. If any Lot Owner fails to abide by this covenant, then the Association shall be vested with a self-help right to perform such maintenance on behalf of such Lot Owner and shall charge the expense thereof to the Lot Owner, which shall become an additional assessment against any such Lot, enforceable in accordance with Article VI of this Declaration. The Association shall provide written notice to any Lot Owner who is in violation of this covenant, and the Lot Owner shall have a period fourteen (14) days to cure such violation (as of the Lot Owner's receipt of such written notice), after which the Association shall have the right to elect its self-help remedy and perform the work on the Lot Owner's behalf; and the Association shall have a license to enter upon the Owner's Lot for such limited purpose; however, notwithstanding the above, it is understood and agreed that if the Lot is in foreclosure (as evidenced by any foreclosure filing with the local Clerk of Court's office), then the requirement that the Association provide such written notice the Lot Owner along with such cure right shall be automatically waived; and the Association shall be immediately vested with the right to perform the work and assess the Lot (without such advance notice or cure right being necessary).

Section 9. The maintenance, keeping, boarding and/or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, shall be and is prohibited within any Lot or upon the Common Area, except that the keeping of not more than a combined three (3) orderly domestic dogs and/or cats shall be permitted, provided that each such pet is sixty (60) pounds or less upon full growth and maturity (however, if a Lot Owner only owns one (1) dog, then such dog may be up to ninety (90) pounds or as may be otherwise approved by the Board upon written request), subject to the Rules and Regulations adopted by the Board of Directors; provided, however, that such pets are not kept or maintained for commercial purposes or for breeding and provided, further, that any such pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon ten (10) days written notice from the Board of Directors. Such pets shall not be permitted upon the Common Area unless accompanied by an adult and unless carried or leashed. All pets shall be registered with the Board of Directors and shall otherwise be registered and inoculated as required by law. No breed of dogs that is dangerous or has a propensity for being dangerous, nor any dog whose lineage includes any part of any of said breeds, nor any dog that has at any time bitten a person, nor any dog that has been trained as an attack dog, shall be permitted on the Property. No exotic pets of any kind, regardless of their size, shall be raised, bred, or kept on any Lot or in any Townhome Unit or in the Common Area. Dogs, cats, or other household pets must be kept within the confines of the Owner's Townhome Unit except when being held on hand leash. No pet may be staked, housed, tied-up, or otherwise left on a Lot or in any Common Area. Lot Owners shall be responsible for cleaning up after their pet. Notwithstanding the above, the Association shall have the right to promulgate additional Rules and Regulations pertaining to the size, number and type of such household pets and the right to levy fines and enforcement charges against persons who do not clean up after their pets or who otherwise violate the rules with respect to their pets. Additionally, the right of an occupant to maintain an animal in a Townhome Unit shall be subject to termination if the Board in its full and complete discretion determines that the keeping of any animal constitutes a nuisance or creates a detrimental effect on the Townhome Development or occupants (due to noise, odor, danger to residents, or any other reasonable grounds). No doghouse or other structure used or intended for the housing or keeping of animals may be constructed, placed or maintained on any part of the Common Elements.

Notwithstanding anything to the contrary herein, upon special application by any Lot Owner, the Association shall have the right, in its sole and absolute discretion, to deviate from the

pet restrictions contained in this Section, but only on a case-by-case basis, if the Association's Board of Directors unanimously determine in writing that any particular pet, which does not strictly conform to the limitations referenced above, will not undermine the quiet enjoyment of other Owners or residents within the Townhome Development; in addition, during the Development Period, the Declarant, upon special application by any Lot Owner (or prospective buyer), shall have the right, in its sole discretion, to deviate from the pet restrictions contained in this Section, but only on a case-by-case basis, if the Declarant determines in writing that any particular pet, which does not strictly conform to the limitations referenced above, will not pose a danger or undermine the quiet enjoyment of other Owners or residents within the Townhome Development, such decision to be made in the sole and absolute discretion of Declarant. It is expressly provided that neither the Association nor the Declarant shall have any liability for the behavior or actions of any Lot Owner's pet, whether such liability shall be in tort or otherwise, regardless of whether the Association or the Declarant may have allowed any deviation from the pet restrictions contained in this Section, and upon acceptance of any deed for a Townhome Lot within the Townhome Development, every Owner hereby agrees to release and hold harmless the Association and/ or the Declarant from any liability, therefore

Section 10. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of other Lots by the Owners thereof. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly or unkept condition of buildings or grounds on the Owner's Lot which would tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

Section 11. All light bulbs or other lights installed in any fixture located on the exterior of any building or any Lot for the purpose of illumination shall be clear, white non-frost or smoked exterior lights and all draperies covering windows which are visible from the exterior of the units shall be lined with white or some other neutral color.

Section 12. An Owner may let or rent his entire residence, but no portion of any residence shall be leased separately from the rest of the residence. Lot may be leased only for residential purposes. All leases must be in writing and shall have a minimum term of at least twelve (12) months. All leases shall require that the tenant acknowledge receipt of a copy of the Declaration, the Bylaws, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing, and the lease shall provide that the violation of any provision of this Declaration, the Bylaws, or rules and regulations of the Association shall be a breach of said lease, subjecting the tenant to termination of the lease and eviction. The Board may enact additional reasonable rules and regulations regarding the leasing of Lots, including, without limitation, a requirement that leases be registered with the Association and that tenant contact information and vehicle information be provided to the Board. No Lot or residence located thereon may be used for transient housing, for hotel purposes, or as a bed and breakfast. The above notwithstanding in no event shall more then fifty percent (50%) of the Townhome Units in the Townhome Development be leased at any given time (with the exception of Townhome Unites that are owned by the Declarant or any affiliate of the Declarant, which are exempted therefrom) (the Maximum Rental Threshold"), The above notwithstanding, it is agreed that the Declarant may provide a variance from the Maximum Rental Threshold to one or more Owners, on a case-by case basis, prior to the expiration of the Development Period; and only in the vent such variance may the Maximum Rental Threshold be exceeded.

Section 13. In the event of fire or other casualty damage to any existing dwelling unit the damage must be repaired immediately. If the dwelling unit is totally destroyed or partially destroyed, the appropriate repair or replacement must be completed within one (1) year from the date of damage. The dwelling unit must be rebuilt to the previous style, size, design and at least comparable market value and shall be subject to Board or its architectural committee approval as provided for in Article IV.

Section 14. No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Areas except at the direction or with the express written consent of the Association.

Section 15. It is understood and agreed that these restrictions are made for the mutual benefit of the grantors and grantees and any and all subsequent grantees, and all such parties shall be deemed to have a vested interest in these restrictions and the right of enforcing same.

Section 16. The Declarant shall have the right, but no obligation, to remove or require the removal of any fence, sign, wall, hedge, shrub, bush, tree or other thing, natural or artificial, placed or located on any Lot, if the location of the same will, in the sole judgment and opinion of the Declarant, obstruct the vision of a motorist upon any of the access way.

Section 17. No person shall impede or obstruct the access or egress of an Owner to or from their Lot. The Association or any Owner who is completely blocked from access or egress to or from their home from either direction may have any vehicle or vehicles removed from the common drive as required to gain such access or egress and the owner or owners of such vehicle or vehicles will be liable for any towing and/or storage charges resulting from such removal.

Section 18. No basketball goals may be erected or placed in the street right of way.

Section 19. All garbage and trash will be placed in covered containers of a type, size and style which are approved by the Board of Directors and subject to rules promulgated by the Association, or as required by the applicable governing jurisdiction, and which will be stored behind screening or inside the Dwelling. No person shall burn rubbish, garbage, or any other form of solid waste on any Lot or on Common Areas or within the right of way of any street within the Property. The Association may contract with a waste disposal service for disposal of household waste generated by members on the Property and may promulgate rules related to garbage.

Section 20. No air conditioners shall be installed in any window of any building located on any Lot. No air conditioner shall be installed on any building located on any Lot such that the air conditioner protrudes through any exterior wall of the building.

Section 21. Exterior Surfaces of Buildings. Lot Owners shall not cause or permit anything to be hung or displayed on the inside or outside of windows (except as provided for herein), or hung on the outside of the Townhome Unit doors, or placed on the exterior walls of a building; no sign, awning, canopy, flag (except the American Flag and North Carolina State Flag), shutter, radio, or television antenna, or satellite dishes shall be affixed to or placed upon the exterior walls or roof or any part of a building, Lot, or the Common Area without the prior written consent or the Association. Unless otherwise approved in writing by the Association, Lot Owners shall not cause or permit any window treatments, curtains, shades, or other window coverings to be hung inside or outside any windows, doorways, and/or patio doors that will be visible to persons outside other than solid white/off white and light beige tones. Notwithstanding anything to the contrary herein, the Association shall have the authority to grant individual variances, provided, however, that the Association shall at all times act in a reasonable manner to keep the Development aesthetically pleasing as a first-rate, high-end residential development.

Section 22. No clothes, sheets, blankets, laundry of any kind, or other articles shall be hung outside or left exposed on any part of the Development, such that they are visible from the street or other Townhome Units. All Lots shall be kept free and clear of rubbish, debris, and other unsightly materials. No open fires shall be permitted on any part of the Development. Owners may use approved gas or electric grills on their Lots, and the Association shall have final approval rights with respect to permitted grill models; charcoal grills may be permitted but only in approved areas, as determined by the Association. However, the Association reserves the right to prohibit charcoal grills and any open flame devices for safety reasons, in its sole discretion.

Section 23. The invalidation of any one or more or any part of any one or more of the covenants and conditions set forth herein shall not affect or invalidate the remaining covenants and conditions or portions thereof.

ARTICLE VIII
ANNEXATION OF ADDITIONAL PROPERTY

During the Period of Declarant Control, additional land may be annexed by the Declarant without the consent of the Members and therefore become subject to this Declaration by the recording by Declarant of a plat showing such property to be annexed and of a supplementary declaration extending the operation and effect of this Declaration to the property to be annexed. Any property annexed pursuant to this subsection may be annexed and subjected to this

Declaration as one parcel or as several parcels at different times. The addition of such property pursuant to this section may increase the cumulative number of Lots within the Property and therefore, may alter the relative maximum voting strength of the various types of Members. Any Supplemental Declaration may contain such complimentary additions and/or modifications of the covenants and restrictions contained in this Declaration, including, without limitation, different voting rights and different annual and special assessments for the Lots so annexed as Declarant, in its sole discretion, may deem necessary or appropriate to reflect the different character or use of the property added. A Supplemental Declaration annexing additional property need only be executed by the Declarant and, if applicable, by the owner of the property being annexed, and shall not require the joinder or consent of the Association or any of its Members.

ARTICLE IX
MAINTENANCE OBLIGATIONS OF LOTS AND TOWNHOMES

Section 1. Maintenance Obligations of the Association. In addition to the maintenance, repair, and operation of the Common Areas, Elements, and improvements located thereon, the Association shall provide exterior maintenance to each Townhome and Lot as follows: maintain, repair, replace, paint, and care for roofs, gutters, downspouts, exterior of Townhome surfaces, trees, shrubs, grass, walks and other exterior improvements and betterments; provided that the Association shall not be responsible for providing exterior maintenance of any improvements and betterments made and installed by individual Owners nor shall the Association be responsible for any portion of a Lot enclosed with a fence. Such exterior maintenance shall not include glass surfaces. Notwithstanding the maintenance responsibilities above, the Owner shall be individually responsible for all watering necessary on the Owner's Lot. In the event that grass or any plant material dies due to a lack of or improper watering on an Owner's Lot, the Association may replace such grass or plant material and shall charge the expense thereof to the Lot Owner, which shall become an additional assessment against any such Lot, enforceable in accordance with Article VI of this Declaration.

The Association shall not have any responsibility for interior moisture and/or mold related issues in any Townhome and shall not be responsible for any air conditioning or heat unit maintenance, repair, or replacement.

In order to enable the Association to accomplish the foregoing, a perpetual easement in gross over all the Lots, Townhomes, and Common Area is hereby granted to the Association for the purpose of unobstructed access over and upon each Lot, Townhome, and Common Area at all reasonable times to perform maintenance as provided herein.

In the event that the need for maintenance or repair by the Association is caused through the willful or negligent act of any Owner, his or her family, guests, invitees, or agents, the costs of such maintenance and repair shall be an additional assessment against the Lot of such Owner, enforceable in accordance with Article VI of this Declaration.

The Association shall make the determination as to when maintenance, repair, or replacement shall be done, and its determination shall be binding. The Association does not warrant in any way or for any purpose, the improvements or betterments on the Property. The Association shall have a reasonable time in which to make any repair or do any other work required of the Association pursuant to this Declaration. Any determination of reasonableness of the Association's response must allow for the fact that the Association is a non-profit volunteer organization and that the funds available to the Association are limited.

Maintenance and repairs under this Section arise from normal usage and weathering and do not include maintenance and repairs made necessary by fire or other casualty or damage.

Section 2. Maintenance Obligations of the Owner's. Except as provided above, each Owner shall be responsible for the maintenance, repair, and replacement of their Townhome and Lot.

Section 3. Party Walls. Each wall which is built as a part of the original construction of a Townhome upon the Property and placed on a boundary line between Lots and/or Townhome Units, and all reconstruction or extension of such walls, shall constitute party walls. All common party walls between individual Townhome Units shall conform to the requirements of the North Carolina State Building Code. The general rules of law regarding party walls, lateral support, and liability for property damage due to negligence or willful acts or omissions shall apply to each wall

which is built as part of the original construction of the Townhomes within the Property and which is placed on the dividing line between Lots, and to all reconstruction or extensions of such walls, to the extent not inconsistent with the provisions herein. The cost of repair and maintenance of a party wall shall be shared by the Owners who make use of such wall or benefit therefrom in proportion to such use and benefit. Provided, however, that an Owner who, by his or her negligence or willful acts, cases the party wall to be damaged or exposed shall bear the whole cost of the repair.

Every Owner shall have an easement and right of entry upon the Lot of any other Owner and the Association Common Area to the extent reasonably necessary to perform repair, maintenance or reconstruction of a party wall and those improvements belonging to his Lot which encroach on an adjoining Lot or Association Common Area. Such repair, maintenance, or reconstruction shall be done expeditiously, and upon completion of the work, the Owner shall restore the adjoining Lot(s) and Common Area to the same condition as that which existed prior to commencement of the work as is reasonably practicable. Except in an emergency situation, an Owner entering upon another Owner's Lot as provided herein shall give reasonable oral or written notice to the Owner of the Lot on which such entry is to be made.

Notwithstanding any other provision herein, an Owner who, by his negligence or willful act or omission, causes a party wall to be exposed to the elements, shall bear the entire cost of furnishing the necessary protection against such elements and of repairing any damages resulting from such Owner's failure to timely and adequately provide such protection.

If any Owner desires to sell his Lot, such Owner may, in order to assure a prospective purchaser that no Owner of an adjoining Lot has a right to contribution as provided in this Article, may in writing request the adjoining property Owner to make a certification that no right of contribution exists, whereupon it shall be the duty of each adjoining property Owner to make such certification immediately upon request, and without charge; provided, however, that where the adjoining property Owner claims a right of contribution, the certification shall contain a recital of the amount claimed. If an adjoining Owner fails to give a certification within ten (10) days of actual receipt of such written request, such failure shall be conclusively deemed a certification that no such contribution is due.

ARTICLE X
INSURANCE

10. 1 Commencing not later than the time of the first conveyance of a Lot to a person other than a Declarant, the Association shall maintain, to the extent reasonably available:

10.1.1 Property Insurance. Property insurance on the Common Elements, if any, insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and

10.1.2 Liability Insurance. 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 Elements, if any,

10.2 If the insurance described in Section 10.1 is not reasonably available, the Association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Lot Owners. In such event, the Association may carry any other insurance it deems appropriate to protect the Association or the Lot Owners.

10.3 Insurance policies carried pursuant to Section 10.1 shall provide that:

10.3.1 Each Lot Owner is an insured person under the policy to the extent of the Lot Owner's insurable interest;

10.3.2 The insurer waives its right to subrogation under the policy against any Lot Owner or member of the Lot Owner's household, if such waiver of subrogation is standard;

10.3.3 No act or omission by any Lot Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will preclude recovery under the policy; and

10.3.4 If, at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by the policy, the Association's policy provides primary insurance,

10.4 Any loss covered by the property policy under Section 10.1.1 shall be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for Lot Owners and lien holders as their interests may appear. Subject to the provisions of Section 5,6, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and Lot Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Townhome Development is terminated.

10.5 An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Lot Owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association.

10.6 Any portion of the Townhome Development for which insurance is required under Section 10.1.1 which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) the Townhome Development is terminated (pursuant to the procedures set forth in the Planned Community Act), (ii) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (iii) the Lot Owners decide not to rebuild by one hundred percent (100%) approval of Owners, as well as the approval of the Declarant if such damage occurs during the Development Period. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If any portion of the Townhome Development is not repaired or replaced, (i) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Townhome Development, (ii) the insurance proceeds attributable to limited Common Elements which are not rebuilt shall be distributed to the Owners of the Lots to which those limited common elements were allocated, or to lien holders, as their interests may appear, if any, and (iii) the remainder of the proceeds shall be distributed to all of the Lot Owners or lienholders, as their interest may appear, in a proportion to the Common Expense liabilities of all the Lots. Notwithstanding the provisions of this subsection, the pertinent provision of the Planned Community Act shall govern the distribution of insurance proceeds if the Townhome Development is terminated.

10.7 The Association may elect in its sole discretion to maintain in full force and effect at all times a commercial property insurance policy insuring all Townhome Units for the benefit of Unit Owners (and for the benefit of the Association) and to pay the premium(s) therefore, such policy to provide coverage afforded by the commercial special perils form (the "Master Policy"); if the Association elects to maintain such a Master Policy as allowed herein in its sole discretion, and as long as such coverage remains in effect, then (i) the premium(s) incurred by the Association (if the Association elects in its sole discretion to pay said premium(s)) shall be a Common Expense and the Unit Owners may be assessed therefore; and (ii) the Unit Owners shall have no obligation to carry any individual policy covering their Townhome Units (but the Unit Owners shall remain fully responsible for insuring any personal property or other personal effects located within their Townhome Unit, as well as any "loss of use" coverage). If the Association does not elect in its sole discretion to pay the premium(s) of any such Master Policy, then all Unit Owners shall be required to pay their portion of the premium(s) of the Master Policy so as to insure their Townhome Unit. If the Association does not provide for a Master Policy, then all Unit Owners shall be required to maintain in full force and effect at all times a separate homeowners insurance policy insuring their Townhome Unit, such policy to provide coverage afforded by a "H0-3" policy or better. All Unit

Owners shall provide the Declarant or the Association with a declarations page or other certificate evidencing such coverage upon request, and any insurer providing said coverage may not cancel or refuse to renew said coverage until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association. If the Association becomes aware that a Unit Owner has not insured his or her Townhome Unit as required herein, then the Association shall have the right (but shall not be required) to obtain such insurance policy for his or her benefit, and for the benefit of the larger Townhome Development. Any expenses paid by the Association to obtain any such insurance policy shall be treated as an Assessment with respect to the affected Lot Owner, and the Association shall have lien rights against the affected Townhome Unit to secure repayment of any such Assessment. It is expressly provided that for purposes of insuring the Townhome Units as provided herein, the definition of an insured "Townhome Unit" shall expressly include party walls; finished walls; finished flooring; finished ceiling; plumbing and utility lines and connectors; all cabinets that are affixed and/or built-in to the walls and/or floors; and all original countertops, appliances, sinks, plumbing and electrical fixtures. Any other personal effects or materials within the Townhome Unit shall not be considered part of the Townhome Unit, and the Unit Owners shall remain fully responsible for insuring all such additional items.

It is expressly provided that each Unit Owner, in his or her discretion, shall be fully responsible at all times for insuring any and all personal property or other items located within his or her Townhome Unit, it being recommended that any such policy provide coverage afforded by a "H0-4" or "H0-6" policy or better. Each Unit Owner shall also be responsible, in his or her discretion, for insuring against the "loss of use" of his or her Townhome Unit in the event of a casualty or other occurrence that may impair his or her ability to reside in his or her Unit for any period of time. Finally, each Unit Owner shall be fully responsible for ensuring in his or her discretion that any such insurance policy carried by each Unit Owner appropriately dovetails and fully compliments any c01mnercial property policy that may be carried by the Association on behalf of all Townhome Units (assuming that the Association elects to carry such coverage for the benefit of all Townhome Units as permitted above), such that there exist no "gaps" in the coverages afforded by the respective insurance policies. In the event of a casualty situation, it is expressly declared that the Association and/or the Declarant shall have no liability for any such "gap" in coverage between any Master Policy and any policy maintained by any Unit Owner. In addition, it is expressly declared that the Association and/or the Declarant shall have no liability for any insufficient or denied coverages with respect to any Master Policy, and each Unit Owner shall be fully responsible for ensuring that his or her interests are adequately insured.

Notwithstanding anything to the contrary herein, if the Association elects in its sole discretion to maintain in full force and effect a Master Policy, the Association reserves the right not to file a claim against such Master Policy if the Association, as the case may be, reasonably believes in its sole discretion that insurance premiums or insurance coverage may be materially affected as a result of any such claim being made; and in such event, the amount of such unfiled claim shall become a Common Expense of the Association.

The purpose of any Master Policy obtained by the Association pursuant to the rights granted hereunder is to ensure that all Townhome Units are equally and consistently insured in the event of a casualty or other claim of loss event.

10.8 Any portion of the Townhome Development for which insurance is required under Section 10.7 which is damaged or destroyed shall be repaired or replaced promptly by the Association and/or the affected Lot Owner unless (i) the Townhome Development is terminated (pursuant to the procedures set forth in the Planned Community Act), (ii) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (iii) the Lot Owners in the Townhome Development decide not to rebuild by a one hundred percent (100%) vote, along with the approval of the Declarant if such damage occurs during the Development Period. If a Master Policy is maintained by the Association, then the cost of repair or replacement in excess of insurance proceeds shall be a Common Expense, if a Master Policy is not maintained by (or any such premiums are not paid by) the Association, then the cost of repair or replacement in excess of insurance proceeds shall be the responsibility of and an Assessment against the affected Lot Owner(s), subject to the lien rights of the Association, in accordance with Article III. The Association shall have the right (but shall not be required) to incur any additional expense to adequately repair or replace the damaged Townhome Unit(s), if insurance proceeds are not adequate to cover same. If any portion of the Townhome Development is not repaired or replaced in accordance herewith, (i) the insurance proceeds attributable to the damaged areas shall be used to restore the damaged area to a condition compatible with the remainder of the Townhome

Development, and (ii) the remainder of the proceeds shall be distributed to the affected Lot Owner or his or her lienholders, as their interests may appear, Notwithstanding the provisions of this section, the pertinent provision of the Planned Community Act shall govern the distribution of insurance proceeds if the Townhome Development is terminated.

ARTICLE XI
GENERAL PROVISIONS

Section 1. Lots Subject to Declaration. All present and future Owners, tenants and occupants of Lots and their guests or invitees, shall be subject to, and shall comply with the provisions of the Declaration, and as the Declaration may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Lot shall constitute an agreement that the provisions of the Declaration are accepted and ratified by such Owner, tenant or occupant.

Section 2. Duration. The covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable by the Association, the Declarant or the Owner of any Lot, their respective legal representatives, heirs, successors and assigns, and shall run with and bind the land and shall bind any person having at any time any interest or estate in any Lot, as though such provisions were made a part of each and every deed of conveyance or lease, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Section 3. Amendment of Declaration. Except as otherwise expressly provided herein, the covenants and restrictions of this Declaration may be amended by an instrument signed by not less than sixty-seven percent (67%) of the votes in the Association; provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. In no event may the Declaration be amended so as to deprive the Declarant of any rights herein granted or reserved unto Declarant, and during the Period of Declarant Control, no amendment may be made without the written consent of Declarant.

Notwithstanding the terms of the immediately preceding paragraph of this Section, for so long as Declarant owns any real property subject to this Declaration, Declarant, without obtaining the approval of any Owner or Owners, shall have the unilateral right, in its sole and absolute discretion, to make any amendments or modifications hereto which Declarant deems necessary or desirable, including, without limitation, amendments or modifications to any procedural, administrative or substantive provisions of this Declaration.

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

Section 4. Notices. Any notice required to be sent to any Owner under the provisions of the Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the last known address of the person or entity who appears as Owner on the Association's books, on the first day of the calendar month in which said notice is mailed. Notice to one of two or more co-owners of a Lot or dwelling unit shall constitute notice to all co-owners.

It shall be the obligation of every Owner to immediately notify the Secretary of the Association in writing of any change of address. Any person who becomes an Owner following the first day in the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to his predecessor-in-title.

Section 5. 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. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall be entitled to

recover its reasonable attorney fees and costs incurred enforcing these restrictions, conditions, covenants, reservations, liens, and charges from the party or parties in violation of the same.

Section 6. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 7. Interpretation. In all cases, the provisions of this Declaration shall be given that interpretation of construction which will best result in the consummation of the general plan of development of the Property. The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning or similar ordinance which allows a less restricted use of the Property.

Section 8. Authorized Action. All action which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.

Section 9. Trespass. Whenever the Association and/or Declarant are permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on any property or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass.

Section 10. Incorporation of Applicable Ordinances and Conflict. In the event of any conflict between the provisions of this Declaration and any applicable provisions of the Durham County or Town of Durham Zoning or Subdivision Ordinances, the provisions of the Durham County or Town of Durham Zoning or Subdivision Ordinances shall control.

ARTICLE XII
OBLIGATIONS REGARDING STORMWATER FACILITIES

The Property includes one or more stormwater management facilities (hereafter "Facility/ies") that is/are the perpetual responsibility of the Association. Such Facilities are subject to the Durham City Code, Chapter 70, Article X, Section 70-743 (Inspection, Maintenance, Repair, and Reconstruction) and is binding on the Association. The Facilities, associated easements, and stormwater notes are or will be shown on a plat(s) recorded with the Durham County Register of Deeds. The Property subject to the above section of the Durham City Code is the "Property" referred to in this Article. The Stormwater Facilities must be maintained in accordance with City Requirements, which include all ordinances, policies, standards, and maintenance protocols. In particular the City's current "Owner's Maintenance Guide for Stormwater BMPs Constructed in the City of Durham" (available at the time of recording this document at http://durhamnc.gov/DocumentCenter/View/2239/Owners-Maintenance-Guide-for-Stormwater-BMPs-PDF?bidId= and the operation and maintenance manual prepared specifically for the Facility/ies containing requirements that apply to the Association's Facilities.

Nothing in the remaining Article of these Restrictive Covenants filed by Declarant as part of this Declaration or any subsequent modifications of this Declaration may reduce the Association's or Lot Owners' obligations with regard to the Facility/ies. Such additional covenants may increase the obligations or provide for additional enforcement options.

The Stormwater Facility/ies and their location are as follows: one wet pond with a drainage area of 6 acres, a design storm surface area of 11,619 square feet and a design storm storage volume of 30,555 cubic feet.

In addition to the above obligations, the Association's obligations with regard to the Facilities are:

1. **Inspections/Routine Maintenance.** In accordance with City Requirements, the Association shall cause the Facility/ies to be inspected i) annually; and, ii) after major storm events that cause visual damage to the Facility; and iii) upon notification from the City to inspect. The inspection shall be performed by a licensed North Carolina Professional Engineer or a North Carolina Registered Landscape Architect certified by the City who shall document those things mandated under City Requirements. The inspection shall occur annually during the month in which the Facility/ies as-built certification was accepted by the City, which month may be

determined through contact with the City of Durham Department of Public Works, Stormwater Division. The inspection shall be reported to the City as further described below.

2. **Repair and Reconstruction.** The Association shall repair and/or reconstruct the Facility/ies as it determines is necessary, and, at a minimum, as set forth in City Requirements or as directed by the City to allow the Facility/ies to function for its intended purpose, and to its design capacity. The Association shall provide written reports regarding major repair or reconstruction to the City in accordance with City Requirements.

3. **Stormwater Budget Line Items & Funding.** The dues of the Association shall include amounts for upkeep and reconstruction of the Facilities which shall be included in dues charged to Lots or members from the point that Lots or members are charged dues for other common purposes. The Association shall maintain two (2) separate funds in its budget for the Facility/ies. The first, the "Inspection and Maintenance Fund," shall be for routine inspection and maintenance expenditures and shall be used for annual inspections, maintenance, and minor repairs. The funds for this purpose may be maintained as part of the Association's general account. The second fund, the "Major Reconstruction Fund," shall be a separate, increasing reserve fund that will build over time and provide money for major repairs to and eventual reconstruction of the Facility/ies. The Major Reconstruction Fund shall be maintained in an account that is separate account from the Association's general account as described below. At a minimum, the Association shall, annually, earmark **$2,843.00** from its collected dues for the Inspection and Maintenance Fund and **$672.00** for the Major Reconstruction Fund. These minimum amounts shall be increased annually by 3% per year over the prior year's amount. The Association may set a higher amount in its discretion, or if directed by Durham Director of Public Works after an examination of the Facility/ies. The Association shall set dues at a sufficient amount to fund each of the two line items in addition to the Association's other obligations. The Association may compel payment of dues through all remedies provided in these Covenants or otherwise available under law.

4. **Assessments/Liens**. In addition to payment of dues, each Lot shall be subject to assessments by the Association for the purpose of fulfilling the Association's obligations under this Article. Such assessments shall be collected in the manner set forth in these Covenants. As allowed under NCGS §47F, or successor statutes, or, for condominiums, as allowed under NCGS 47C, or successor statutes, all assessment remaining unpaid for 30 days or longer shall constitute a lien on the Lot. Such lien and costs of collection may be filed and foreclosed on by the Association. In addition, the Association's rights may, in the discretion of the City, be exercised by the City, as a third party beneficiary and/or as Attorney in Fact for the Association.

5. **Stormwater Expenditures Receive Highest Priority**. Notwithstanding any contrary provisions of the covenants of which this Article is a part, to the extent not prohibited by law, the inspection, maintenance, repair, and replacement/reconstruction of the Facility/ies shall receive the highest priority (excluding taxes and assessments and other statutorily required expenditures) of all Association expenditures.

6. **Separate Account for Major Reconstruction Fund. Engineer's Report.** The Association shall maintain the Major Reconstruction Fund for the Facility/ies in an account separate from the Association's general account. The Association shall use the Fund only for major repairs and reconstruction of the Facility/ies. No withdrawal shall be made from this fund unless the withdrawal is approved by two Association officials who shall execute any documents allowing such withdrawal. Prior to withdrawing funds from this account, the Association shall (i) obtain a written report from an engineer approved in accordance with City Requirements regarding repairs or reconstruction needed and approximate cost of such repair or reconstruction; and (ii) submit such report to the Director of the City's Department of Public Works, and notify the Director of the repairs or reconstruction to be undertaken on the Facility, the proposed date, and the amount to be withdrawn from the Major Reconstruction Fund. In the event of an emergency, withdrawal and expenditure of funds may be made after telephone notification to the Stormwater Services Division of the Department.

7. **Annual Reports to City.** The Association shall provide to the City annual reports in substance and form as set forth in City Requirements. At a minimum each report shall include:

i. the annual Facilities inspections report described in section (1) above;
ii. if requested by City, a description of repairs exceeding normal maintenance that have been performed on the Facility/ies in the past year, and the cost of such repairs;

iii. if requested by City, a bank or account statement showing the existence of the separate Major Reconstruction Fund described in Section (6) above and the balance in such fund as of the time of submission of the report;

iv. if requested by City, the amount of Association dues being set aside for the current year for each of the two stormwater funds – the Inspection and Maintenance Fund and the Major Reconstruction Fund.

8. **Facility/ies to Remain with Association; Lot Owners' Liability.** To the extent not prohibited by law, the Facility/ies shall remain the property of the Association and may not be conveyed by the Association. In the event the Association ceases to exist or is unable to perform its obligations, all Lot Owners, excluding the Lots owned by the Association, shall be jointly and severally liable to fulfill the Association's obligations. Such Lot Owners shall have the right of contribution from other owners with each Lot's pro rata share being calculated as Lot Owner's proportional obligations are otherwise defined in these Covenants. The City may also exercise rights described in the Durham City Code and other remedies provided by law.

9. **City Rights; Liens Against Owners.** In addition to rights granted to the City by ordinance or otherwise, the City shall have the following rights, generally summarized below:

a. Direct the Association in matters regarding the inspection, maintenance, repair, and /or reconstruction of the Facility/ies;

b. If the Association does not perform the work required by ordinance or by these covenants, do such work itself, upon 30 days' written notice to the Association.

c. Access the Facility/ies for inspection, maintenance, and repair, crossing as necessary the lot(s) on which the Facility/ies are located and all other private and public easements that exist within the Property subject to these covenants.

d. Require reimbursement by the Association of the City's costs in inspecting, maintaining, repairing, or reconstructing the Facility/ies.

e. Enforce any debts owed by the Association against Lot Owners if such debts are not fully paid by the Association. The debt may be allocated to Lot Owners as provided in the other sections of these Covenants, and may be made a lien on each owner's property, may be added to each owner's utility bills, and may result in foreclosure.

10. **No Dissolution**. To the extent not prohibited by law, the Association shall not enter into voluntary dissolution unless the Facility is transferred to a person who has been approved by the City and has executed formal acceptance with the City assuming the obligations of the Association. Individual Lots and Lot Owners continue to be liable for the Facility/ies in the event the Association is dissolved without an approved responsible party that is assuming the Association's obligations.

11. **No Amendment**. Without the prior written consent of the City, which may be given by the Durham Public Works Director, and notwithstanding any other provisions of these Restrictive Covenants, the Association may not amend or delete this Article with the exception of supplementing its provisions in a more detailed manner to better describe members' or Lot Owners' obligations regarding each other.

IN WITNESS WHEREOF, this Declaration has been executed by the Declarant this the ___ day of September, 2024.

[signature page to follow]

MCKEE HOMES, LLC

By: _____

Print Name: Patrick McKee

Title: Managing Member

STATE OF North Carolina

COUNTY OF Wake

The undersigned, a Notary Public in and for said county and state, does hereby certify that PATRICK MCKEE, personally appeared before me this day in his/her capacity as MANAGING MEMBER of **MCKEE HOMES, LLC.** and acknowledged the due execution of the foregoing Declaration of Covenants, Conditions and Restrictions for Page Townes Subdivision and acknowledged that he had authority to sign on behalf of the principal in the capacity indicated above.

Witness my hand and notarial seal, this the 11TH day of September, 2024.

SUSAN FRIZELL
My Commission Expires
NOTARY PUBLIC
October 8, 2028
WAKE COUNTY, NC

(SEAL)

SUSAN FRIZELL
Notary Public printed name

Susan Frizell
Notary Public signature

My Commission expires: OCTOBER 8, 2028