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**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR
BRIGHT'S CREEK,
A PLANNED COMMUNITY**

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

HTPL: 554909v1

BRIGHT'S CREEK

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made and entered into as of Effective Date (hereafter defined) by the **BRIGHT'S CREEK PROPERTY OWNERS ASSOCIATION, INC.**, a North Carolina non-profit corporation (hereinafter "Association"), with the written consent of **ALIANZA TRINITY DEVELOPMENT GROUP, LLC** ("Declarant") as provided for in Section 11.3.2 of the Declaration.

WITNESSETH:

WHEREAS, the Association is the property owners association described in that Declaration of Covenants, Conditions and Restrictions for the Bright's Creek subdivision community recorded in Book 335, Page 444, Polk County Registry, and any and all amendments and supplements thereto (as amended or supplemented, the "Declaration"); and

WHEREAS, in accordance with N.C. Gen. Stat. 47F-2-117 and Article 11 (Section 11.3) of the Declaration, the Declaration may be amended only by affirmative vote or written agreement signed by lot owners of lots to which at least 67% of the votes in the Association are allocated; and

WHEREAS, at a duly called meeting of the Association held on March 30, 2014, more than 67% of the votes of the entire Association were present, either in person or by proxy, and more than 67% of the votes of the entire Association consented to the recording of this Amendment as evidenced by the attached certifications from the Secretary and President of the Association.

WHEREAS, the Property encumbered by this Amended and Restated Declaration is more particularly described in Exhibit A attached hereto and incorporated herein by reference; and

ARTICLE 1

DEFINITIONS

1.1 Capitalized Terms. The following capitalized terms shall have the meanings hereafter set forth:

"Act" shall mean the North Carolina Nonprofit Corporation Act and the North Carolina Planned Community Act, as amended from time to time. In case of a conflict between the Nonprofit Corporation Act and the Planned Community Act, the latter shall control.

“Additional Property” shall mean all property now owned by Declarant, other than the Property, or which may hereafter be acquired by Declarant in the immediate vicinity of the Property.

“ARC” shall mean the Architectural Review Committee created by Declarant or the Association in accordance with the terms of this Declaration. In general, the ARC shall have the responsibility to adopt Design Guidelines and approve the designs, plans, specifications, colors, materials and all other exterior aspects of all Dwellings and all other Improvements to be located on any Lot, as well as all additions and modifications thereof.

“Articles of Incorporation” shall mean the Articles of Incorporation of Bright’s Creek Property Owners Association, Inc., a North Carolina non-profit corporation, as filed with the North Carolina Secretary of State.

“Association” shall mean and refer to the BRIGHT’S CREEK PROPERTY OWNERS ASSOCIATION, INC., its successors and assigns. The Association shall be a not-for-profit corporation formed under the laws of the State of North Carolina. Until such time as the Association is formed, Declarant shall carry out the functions of the Association as set forth in this Declaration.

“Board of Directors” or “Board” shall mean the Board of Directors of the Association as selected in accordance with the By-Laws and North Carolina law and as constituted from time to time.

“By-Laws” shall mean the by-laws of the Association attached hereto as Exhibit B, as amended from time to time in accordance with the terms of the By-Laws.

“Design Guidelines” means the architectural, landscaping, construction, utilities and other similar guidelines, as well as the application and review procedures relating thereto, adopted and published by the ARC, as the same may be amended from time to time.

“Director” shall mean a member of the Board of Directors of the Association as selected in accordance with the By-Laws and North Carolina law.

“Dwelling” shall mean and include, but shall not be limited to, both the main portion of a structure built for permanent occupancy and all projections from or extensions thereof, including, but not limited to, swimming pools, patios, garages, outside platforms, canopies, decks, porches and outbuildings whether or not attached to the main structure built for permanent occupancy. All references to a Dwelling shall include any Lot or other real property upon which such Dwelling is constructed unless the context clearly requires to the contrary.

“Club Membership Plan” shall mean the Club Membership Plan, dated as of March 30, 2014, as may be amended, that is adopted by the Golf Facilities owner for the private social and recreational club, which is part of the Non-Association Amenities.

“Common Areas” shall mean any real estate located within the Property owned or leased by the Association, other than a lot, including, but not limited to, the property described in Deed Book 388, Page 796, Polk County Registry. All Common Areas, including Limited Common

Areas, which have improvements which are not complete and which are proposed for conveyance to the Association, must be approved by the Association's Board of Directors as a Major Decision under Section 3.1.3 prior to transfer.

"Common Expenses" shall mean expenditure made by or financial liabilities of the Association, together with any allocations to reserves. Common Expenses include those certain expenses incurred or anticipated to be incurred by the Association in accordance with Section 4.5 of the Declaration.

"Cottage Home Lot" shall mean and refer to any Lot so designated upon Declarant's development plan of the Property; and a "Cottage Home" is any residence constructed on a Cottage Home Lot.

"Declarant" shall mean Alianza Trinity Development Group, LLC, its successors and assigns; provided, however, that there shall be only one Person entitled to exercise the rights and powers of Declarant at any one time, with any delegation of such responsibility to be evidenced by a recorded instrument evidencing such designation.

"Declarant Control Period" shall mean the time period commencing as of the effective date of this Declaration and ending upon the disposition by Declarant of (i) ninety percent (90%) of the total Lots anticipated to be included within the Property, taking into consideration all the Additional Property; and (ii) all the real estate and facilities which constitute assets which are the subject of the Club Membership Plan.

"Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, as amended.

"Effective Date" shall have the meaning set forth on the signature page hereof.

"Golf Facilities" shall mean those certain golf facilities from time to time constructed on or adjacent to the Property, whether constituting Non-Association Amenities or otherwise.

"Governing Documents" shall mean this Declaration, all Supplemental Declarations, the Articles of Incorporation, By-Laws, Rules and Regulations, Design Guidelines and any other documentation governing the Association, the Owners, and/or the Occupants.

"Improvement" shall mean any structure or construction of any kind that alters the physical appearance of a Lot, including but not limited to, Dwellings, other buildings, outbuildings, roads and driveways (other than those dedicated to public use), parking areas, fences, screening walls, retaining walls, loading areas, signs, utilities, lighting, lawns, landscaping and walkways, together with any construction work or treatment done or applied in connection with any of the foregoing.

"Institutional Mortgage" shall mean and refer to a mortgage or deed of trust held by a bank, trust company, insurance company or other recognized lending institution or by an institutional or governmental insurer or purchaser of mortgage loans in the secondary market, such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

“Limited Common Areas” shall mean a portion of the Common Areas within the Property designated by Declarant or the Association in their discretion (subject to Declarant consent during the Declarant Control Period), as being either i) for the exclusive use of one or more but fewer than all Lots; or ii) benefitting, either directly or indirectly, one or more but fewer than all of the Owners.

“Lot” shall mean and refer to any numbered plot of land within the Property shown upon any recorded Site Plan of the Property and intended for a Member’s Dwelling. A Lot may include a townhouse or condominium unit as developed by the Declarant or his assigns. An assessment is not allocated to a Lot until it has actually been conveyed by the Declarant to a Person other than Declarant.

“Member” shall mean and refer to every person or entity that holds a membership with voting rights in the Association.

“Neighborhood” shall mean a separately developed area within the Property, in which the Owners of Lots may have common interest other than those of all Members of the Association.

“Neighborhood Assessments” shall mean those assessments levied against the Lots in a particular Neighborhood to fund Neighborhood Expenses.

“Neighborhood Committee” shall mean any committee created by the Board of Directors to represent the interests of a Neighborhood.

“Neighborhood Expenses” shall mean the actual and estimated expenses incurred or anticipated to be incurred by the Board of Directors for the benefit of Owners of Lots within a particular Neighborhood, which may include a reasonable reserve for capital repairs and replacement, as the Board may specifically authorize from time to time and as may be authorized herein or in any Supplemental Declaration applicable to such Neighborhood(s).

“Non-Association Amenity” shall mean any recreational and/or social facilities located adjacent to, in the vicinity of, or within the Property initially constructed in whole or in part by Declarant, Declarant’s assigns, or by Bright’s Creek Holding Company, LLC that are not intended to be part of the Common Areas, including but not limited to, the Club Facilities described in the Club Membership Plan and the Sporting Facilities described in the Sporting Club Membership Plan.

“Occupant” shall mean any person or entity who occupies, or who has the right to occupy, all or a part of any Lot, whether such occupancy or right of occupancy is based on ownership, lease, license or easement.

“Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, but excluding those having such interest merely as security for the performance of any obligation.

“Person” shall mean any natural person, corporation, partnership, trust or other legal entity of any nature.

“Property” shall mean and refer to that certain real property described in Exhibit A, as well as any real property added under the provisions of Section 2.2.

“Site Plan” shall mean that certain final subdivision plat for the Property, including the subdivision plat approved for any additional real property which becomes a portion of the Property pursuant to any Supplemental Declaration.

“Sporting Club Membership Plan” shall mean the Sporting Club Membership Plan, dated as of March 30, 2014, as may be amended, that is adopted by the Sporting Club Facilities owner for the private social and recreational club, which is part of the Non-Association Amenities.

“Supplemental Declaration” shall mean an instrument filed in the public records which subjects additional real property to this Declaration, designates Neighborhoods, and/or imposes, expressly or by reference, additional restrictions and obligations on the real property described in such instrument.

“Telecommunications Services” shall mean the voice, data (internet), telecommunications (wired or wireless), security services, television, and other electronic services that are delivered by the Association or an authorized third party to the Lots utilizing the optical fiber cable system installed within the Property. All users of Telecommunication Services shall remit the cost of said services regardless of whether or not they choose to use another provided instead of the Association.

“Rules and Regulations” shall mean the rules and regulations from time to time adopted and published by the Association in accordance with Article 5 hereof.

ARTICLE 2

THE GENERAL PLAN FOR BRIGHT’S CREEK

2.1 Plan of Development of the Property.

Declarant plans to develop the Property as the initial phase of a multi-phase development. The Property shall initially contain approximately 295 Lots, which are subjected to this Declaration. The Property will also include Common Areas, including private roads, utility systems, drainage systems, and other improvements serving the Property which are, from time to time, denominated as Common Areas in this Declaration or by Declarant on the Site Plan or in any deed, lease, use agreement, Supplemental Declaration or memorandum thereof filed of record, and which are installed and existing. Without the consent of any person, Declarant will have the right, but not the obligation, during the Declarant Control Period, to make improvements and changes to all Common Areas, Non-Association Amenities and other properties owned by Declarant, including, without limitation, (a) installation and maintenance of any improvements, (b) changes in the location of the boundaries of any such properties owned by Declarant, and (c) installation and maintenance of any water, sewer, and other utility systems, equipment and facilities as referenced in this Declaration.

2.2 Additions to the Property.

Other property may become subject to this Declaration in the following manner:

2.2.1 Additions By Declarant.

During the Declarant Control Period, Declarant shall have the right, without further consent of the Association or any Owner, to bring within the plan and operation of this Declaration, or to consent thereto, the whole or any portion of any property contiguous or nearly contiguous to the Property. Such property may be subjected to this Declaration as one parcel or as several smaller parcels at different times. The additions authorized under this subsection shall be made by filing of record a Supplemental Declaration with respect to the land to be added hereto and which shall extend the operation and effect of the covenants and restrictions of this Declaration thereto, and which, upon filing of record of a Supplemental Declaration, shall constitute a part of the Property.

(a) A 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 to reflect the different character, if any, of the land added hereto, and as are not materially inconsistent with, this Declaration, but such modifications shall have no effect on the Property subjected to this Declaration prior to the filing of record of the Supplemental Declaration in question.

(b) The option reserved under this subsection may be exercised by Declarant only by the execution of a Supplemental Declaration filed of record and the filing of record of a Site Plan showing the land being added or such portion or portions thereof as are being added to the Property, as well as the Lots and Common Areas therein. Any such Supplemental Declaration shall expressly submit the added land to all or specific provisions of this Declaration, as may be provided therein, and such other covenants, restrictions, conditions and easements as Declarant, in its sole discretion, shall determine.

2.3 Conveyances of Common Areas.

Prior to the expiration of the Declarant Control Period, Declarant shall convey title to all Common Areas to the Association. In consideration of the benefits accruing to the Association and to the Members under this Declaration, the Association hereby agrees to accept title to any property, or to any interest in property, now or hereafter conveyed to it pursuant to the terms and conditions of this Declaration. Upon the due recording of a deed, easement, lease or other instrument or memorandum of conveyance of record to the Association, title or such other interest in property conveyed will vest in and to the Association without the necessity of any further act, deed or approval of any Person, including the grantor, lessor and/or Association. Notwithstanding, all Common Areas, including Limited Common Areas, which have improvements which are not complete and which property or properties are proposed hereafter for conveyance to the Association, must be approved by the Association's Board of Directors as a Major Decision under Section 3.1.3 prior to transfer. For purposes of this section, "complete" includes the issuance of any required certificates of occupancy or receipt of final inspection approvals from the applicable governmental entity with jurisdiction over the improvement. If the Common Areas proposed for conveyance to the Association are not complete, then the Declarant must post a reasonable performance bond to insure their completion.

2.4 Owner's Easements of Enjoyment.

Every Owner shall have a non-exclusive right, privilege and easement of use and enjoyment of the Common Areas, which right, privilege and easement shall be appurtenant to and shall pass with the title to every Lot, whether or not referred to in any deed conveying title to any Lot, but subject to all of the provisions of this Declaration.

2.5 Delegation of Use.

Any Owner may delegate, in accordance with and as limited by the Governing Documents, the Owner's rights of use and enjoyment of the Common Areas to the members of his family, guests, tenants, or contract purchasers, provided that every such delegate shall reside upon the Property or be accompanied by the Owner or otherwise be permitted to engage in such use in accordance with the Governing Documents.

2.6 Non-Association Amenities.

Owners shall not have any rights, privilege or easement with respect to the use and enjoyment of Non-Association Amenities except pursuant to the express rights of access and use afforded to Owners by Declarant or the Persons owning and/or operating such Non-Association Amenities.

ARTICLE 3

ASSOCIATION MATTERS

3.1 Bright's Creek Property Owners Association, Inc.

3.1.1 Every Owner of a Lot which is subject to a lien for assessments shall be a Member of the Association. An Owner may assign in writing his membership and voting rights to an Occupant upon such terms as the Board of Directors may prescribe; provided, however, that no such assignment shall affect the obligation of the Owner to pay the assessment described in Article 4 hereof. Otherwise, membership and voting rights shall be appurtenant to, and may not be separated from, ownership of any Lot.

Each Owner shall be entitled to voting rights in the Association consisting of one vote for each Lot owned, except as set forth below and subject to suspension as provided for in Section 3.7 of the By-Laws for nonpayment of assessments or other noncompliance with the Declaration, By-Laws or Rules and Regulations. When more than one person holds an interest in any Lot, all such persons shall be deemed Members. The vote or votes for such Lot shall be exercised as they among themselves determine, but in no event shall multiple Owners of one Lot be entitled to collectively cast more than the one vote for that Lot.

The Association shall have two classes of voting membership: Class A Members shall be all Owners other than Declarant, which shall be a Class B Member. The Class B Member shall be entitled to one vote for each Lot owned by it, plus one vote for each vote held by a Class A Member. The total vote of the Association's Members shall consist of the sum of the votes of all Class A

Members and the votes of the Class B Member, with each Class A vote being equivalent to one Class B vote. Class B membership shall cease at the end of the Declarant Control Period and there shall only one class of membership thereafter.

3.1.2 Board of Directors.

The business and affairs of the Association shall be managed by a Board of Directors, consisting of not less than three (3) directors, but not more than nine (9) directors, appointed by Declarant during the Declarant Control Period. Thereafter, the Board of Directors shall be elected by a plurality vote of the Members of the Association in accordance with the By-Laws. Directors may be but shall not be required to be Members of the Association. No Director shall incur any liability whatsoever to any Member, Owner or Occupant for any actions taken by such Director in good faith and within the scope of his or her authority in implementing or enforcing any provision of this Declaration. Notwithstanding the above, the Declarant reserves the right during the Declarant Control Period to allow the Members at any time to elect any number of Directors without being deemed to have altered or waived in any way its right to appoint or remove any officer or executive board member during such period (including Member-elected). Notwithstanding the above, the number of director seats comprising the Board shall always be an odd number.

3.1.3 Major Decisions.

Except as provided below, all decisions of the Board of Directors shall be decided by a majority vote of the directors at a meeting with a quorum or as otherwise allowed by the Declaration or By-Laws; provided, however, that Major Decisions shall require the assent of 2/3rds of the Board if a 3-member board; 4/5ths of the Board if a 5-member board; 5/7ths of the Board if a 7-member board; or 6/9ths of the Board if a 9-member board. For purposes of this Section, "Major Decisions" shall mean and refer to the following:

- (a) Adopting and/or amending the budget;
- (b) Changing assessment methodologies as provided for in Section 4.5.2;
- (c) Authorizing litigation, except for assessment enforcement actions;
- (d) Borrowing funds;
- (e) Conveying or encumbering Common Areas or acquiring noncomplete Common Areas from Declarant pursuant to Section 1.1 and Section 2.3; and/or
- (f) Authorizing Association amendments to the Declaration.

3.2 Association Governance Generally.

Except as otherwise provided in this Declaration, rules and procedures of the Association, including, but not limited to, conducting elections, meetings (both regular and special), and for casting of votes by Members, and the number thereof required for quorums and approval of ratification, shall be as set forth in the By-Laws.

The Association, subject to the rights of Declarant and the rights and duties of the Owners set forth in this Declaration, will be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including furnishings and equipment related thereto). Except to the extent otherwise required by the provisions of the Act or the Governing Documents, the powers herein or otherwise granted to the Association shall be exercised by the Board of Directors, acting through the officers of the Association as provided in the By-Laws and their duly authorized delegates, without any further consent or action on the part of the Owners.

3.3 Duties and Powers.

The duties and powers of the Association will be those set forth in the provisions of the Act, the By-Laws, and the Articles of Incorporation, together with those reasonably implied to effect the purposes of the Association; provided; however, that if there are conflicts or inconsistencies between the Act, this Declaration, the By-Laws, or the Articles of Incorporation, the provisions of the Act, this Declaration, the Articles of Incorporation, and the By-Laws, in that order, will prevail. The Association may exercise any other right or privilege given to it expressly by the Governing Documents, together with every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such powers of the Association will include, but will not be limited to, the power to purchase one or more properties subject to this Declaration and to hold, lease, mortgage, sell and convey the same. Such duties may include, but will not be limited to, arranging with governmental agencies, public service districts, public or private utilities, or others, as a Common Expense or by billing directly to the Owners, to furnish trash collections, water, sewer and/or security service for the Property. Notwithstanding the foregoing provision of this section or any other provision of this Declaration to the contrary, during the Declarant Control Period the Association will not, without the written approval of Declarant, borrow money or pledge, mortgage, or hypothecate all or any portion of the Common Areas. A conflict or inconsistency between the Act and any Bright's Creek governing document shall not be found in the instances where the Act expressly allows for the governing documents to replace the provisions of the Act.

3.3.1 Ownership of Properties.

The Association will be authorized to own, purchase, lease, and use under any use agreement and maintain Common Areas, equipment, furnishings and improvements devoted to the uses and purposes expressed and implied in this Declaration, including, but not limited to, the following uses:

- (a) For roadways, park areas, walks, paths, trails and other access areas throughout the Property;
 - (b) For security services, including security stations, maintenance buildings and/or guardhouses;
 - (c) For providing any of the services which the Association is authorized to provide;
- and

(d) For purposes set out in deeds or agreements by which Common Areas are conveyed or by which use rights are granted to the Association.

3.3.2 Services.

The Association will be authorized to provide such services required to promote the uses and purposes for which the Association is formed as expressed or implied in this Declaration, including, but not limited to, the following services:

(a) Cleanup and maintenance of all Common Areas, private roads, roadways, road shoulders, roadway medians, parkways, lakes, lagoons, drainage areas and easements outside of the Lots, and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;

(b) Landscaping of Common Areas and walking paths within or constituting a Common Area;

(c) Lighting throughout the Common Areas;

(d) Maintenance of any installed electronic and other access and control devices for the protection of the Property, if any such devices are ever installed, and assistance to the local police and sheriff departments in the apprehension and prosecution of persons who violate applicable laws within the Property;

(e) Insect and pest control to the Common Areas to the extent that it is necessary or desirable in the judgment of the Board of Directors to supplement the service provided by the state and local governments;

(f) The services necessary or desirable in the judgment of the Board of Directors to carry out the Association's obligations and business under the terms of this Declaration and to collect annual assessments, special assessments, emergency special assessments, specific assessments, and other fees and charges collectable from the Owners hereunder;

(g) To take any and all actions necessary to enforce these and all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Property;

(h) To set up and operate an architectural review committee in the event that the Association is assigned the whole or any portion of the function of the ARC by Declarant;

(i) To construct improvements on Common Areas for use for any of the purposes or as may be required to provide the services as authorized in this section;

(j) To provide administrative services including but not limited to legal, accounting and financial and communications services informing Members of activities, including notice of actions incident to the above listed services;

- (k) To provide liability and hazard insurance covering improvements and activities on Common Areas;
- (l) To provide water, sewage, Telecommunications Services and any other necessary utility services not provided by a public body, private utility or Declarant;
- (m) To provide any or all of the above listed services to another Association or Owners of real property under a contract, the terms of which must be approved by the Board of Directors; and
- (n) To provide for hearings and appeal process for violations of Rules and Regulations.

3.4 Agreements.

Subject to the prior approval of Declarant during the Declarant Control Period, all agreements and determinations lawfully authorized by the Board of Directors will be binding upon the Association and all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Property or the privilege of possession and enjoyment of any part of the Property will comply with and be subject to the authorized actions of the Board of Directors. In performing its responsibilities hereunder, the Board of Directors will have the authority to delegate to Persons of its choice such duties of the Association as may be determined by the Board of Directors. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any Person to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association deems necessary or desirable for the proper operation of the Property whether such personnel are furnished or employed directly by the Association or by any Person with whom or with which it contracts. All costs and expenses incident to the employment of a manager will be a Common Expense. During the term of such management agreement, such manager may, if authorized by the Board of Directors, exercise all of the powers and will be responsible for the performance of all the duties of the Association, excepting any of those powers or duties specifically and exclusively reserved to the directors, officers, or Members of the Association by this Declaration or the By-Laws. Such manager may be an individual, corporation, or other legal entity, as the Board of Directors will determine, and may be bonded in such a manner as the Board of Directors may require, with the cost of acquiring any such bond to be a Common Expense. In addition, the Association may pay for, and the Board of Directors may hire and contract for, such legal and accounting services as are necessary or desirable in connection with the operation of the Property or the enforcement of the Governing Documents.

3.5 Indemnification.

The Association shall indemnify every officer, director and committee member against all damages and expenses, including attorneys fees, reasonably incurred in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director or committee member, except that such obligation to indemnify shall be

limited to those actions for which liability is limited under this section, the Articles of Incorporation and the Act.

The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

ARTICLE 4

MAINTENANCE AND ASSESSMENTS

4.1 Responsibilities of Owners.

Unless specifically identified herein as the responsibility of the Association, all maintenance and repair of Lots and Dwellings, together with all other Improvements within such property, will be the responsibility of the Owner thereof in accordance with community standards established and amended from time to time by the Board in the Rules and Regulations in Section 5.1 below. Each Owner will be responsible for maintaining his or its property in a neat, clean and sanitary condition, and such responsibility will include the maintenance and care of all exterior surfaces of all Dwellings, buildings and other structures and all lawns, trees, shrubs, hedges, grass and other landscaping. Each Owner will also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining or cleaning any item which is the responsibility of such Owner, but which responsibility such Owner fails or refuses to discharge. Each Owner shall also be responsible to the Association for compliance with all property owner obligations related to Telecommunications Services as described in Section 4.2.3 below. Such costs and expenses, including reasonable costs and expenses of collection and such fines as may be established by the Association, from time to time, to reimburse the Association for the administrative costs incurred thereby, or otherwise, will be a specific assessment against such Owner. No Owner will (i) change or otherwise alter the appearance of any portion of the exterior of a Dwelling, building or other structure, or the landscaping, grounds, or other improvements within his or its property unless such decoration, change or alteration is first approved, in writing, by the ARC as provided in this Declaration or (ii) do any work which, in the reasonable opinion of the Association, would jeopardize the safety or operations of any Common Area, including any easement held by the Association, or reduce the value of Members' Lots, without in every such case obtaining the written approval of the Association.

4.2 Association's Responsibility.

4.2.1 General.

Except as may be herein otherwise specifically provided, the Association will maintain and keep in good repair all portions of the Common Areas and any easement area encumbering properties of Owners for which the Association is responsible under this Declaration, including responsibility prior to transfer to the Association in accordance with Section 2.3, which responsibility will include the maintenance, repair and replacement of (a) all drainage not under governmental authority and responsibility, (b) all walks, paths, landscaped areas and other improvements situated within the Common Areas or easements, (c) security systems and utility lines, pipes, plumbing, wires, conduits and related systems which are a part of its said properties and which are not maintained by a public authority, public service district, public or private utility or other person, and (d) all lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon its said properties or easement areas. The Association will not be liable for injury or damage to any person or property (i) caused by the elements or by any Owner or by any other person, (ii) resulting from any rain or other surface water which may leak or flow from any portion of its properties, or (iii) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor will the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored in or upon any portion of the Common Areas or any other portion of the Property. No diminution or abatement of assessments will be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed which are the responsibility of the Association or from any action taken by the Association to comply with any law, ordinance or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner. Notwithstanding the foregoing, the Board of Directors shall retain the discretion to (i) set the community standard for maintenance and repairs depending on a whole variety of factors, including the availability of funding; or (ii) to abandon any easement area as allowed by law; or (iii) to close or otherwise regulate the availability of Common Areas.

4.2.2 Work On Behalf of Owners.

In the event that Declarant or the Board of Directors determines that: (a) any Owner or Occupant has failed or refused to discharge properly his or its obligations with regard to the maintenance, cleaning, repair or replacement of items for which he or it is responsible hereunder or (b) that the need for maintenance, cleaning, repair or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner or Occupant and is not covered or paid for by insurance in whole or in part, then in either event, Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice of the Association's intent to provide such necessary maintenance, cleaning, repair or replacement, at the sole cost and expense of such Owner, and setting forth with reasonable particularity the maintenance, cleaning, repairs or replacement deemed necessary. Except in the event of emergency situations, such Owner will have fifteen (15) days within which to complete the same in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair or replacement is not capable of completion within said fifteen (15) day period, to commence said maintenance, cleaning, repair or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice,

Declarant or the Association may provide (but will not have the obligation to so provide) any such maintenance, cleaning, repair, or replacement at the sole cost and expense of such Owner and said cost will be added to and become a part of the assessment to which such Owner and his property is subject and will become a lien against such property. In the event that Declarant undertakes such maintenance, cleaning, repair or replacement, the Association will promptly reimburse Declarant for Declarant's costs and expenses.

4.2.3 Telecommunications Services.

The Association is the owner of and is operating facilities and equipment for the provision of Telecommunication Services to Owners within the Property. Each Owner shall be obligated to apply for Telecommunication Services upon the issuance of a certificate of occupancy for any Dwelling constructed on the Owner's Lot and the Owner shall be responsible for applicable charges, if any, for installation of equipment, hook up, connection, initiation of service and any other fees associated with the use of such service. Declarant shall be obligated to install fiber optic cable to a point adjacent to each Lot, but each Owner will be responsible for the cost of connecting to the same from that point. The Association shall have the right, in addition to the levying of user fees, to charge and collect from each Owner, regardless of the status of improvements on a Lot, for the expenses associated with the purchase, maintenance, repair and/or improvement of the Telecommunication Services system as part of the Common Expenses of the Association and as part of the assessment obligations set forth in Section 4.3 below. The Association may enter into service agreements with providers of telecommunication services and all Owners of Dwellings shall be bound to comply with such terms.

4.3 Creation of the Lien and Personal Obligation of Assessments.

Each Owner, by acceptance of a deed to any Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be established as necessary and collected as hereinafter provided; (3) specific assessments against the Owner for work undertaken on behalf of the Owner as specified in Section 4.2.2 above; (4) specific assessments for sums due related to Telecommunications Services as specified in Section 4.2.3 above; and (5) any applicable Neighborhood assessment. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on each Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of each person who is the Owner of such Lot at the time when the assessment is due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed.

Lots owned by the Declarant are not subject to a lien for assessments except as stated below. The Declarant shall, however, during the Declarant Control Period, fund the shortfall of approved Association budgets commencing in the 2014 fiscal year with a cap of \$100,000.00 per annum for each budget ("Budget Shortfalls"). "Shortfall" shall mean and refer to any difference in the approved Association budget as determined by the Board of Directors in projected revenues expected to be collected from Owners of non-Declarant Lots and budgeted Common

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Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used as authorized.

4.5 Annual and Special Assessments.

The Common Expenses to be funded by the annual assessments may include, but will not necessarily be limited to, management fees and expenses of administration, including all personnel and professional service costs, utility charges for utilities serving the Common Areas and charges for other common services for the Property, including trash collection and security services, if any such services or charges are provided or paid by the Association; the cost of any policies of insurance purchased for the benefit of all the Owners and the Association as required or permitted by this Declaration, including fire, flood and other hazard coverage, public liability coverage and other insurance coverage determined by the Board to be in the interests of the Association and the Owners; the expenses of maintenance, operation and repair of those portions of the Common Areas which are the responsibility of the Association under the provisions of this Declaration; the expenses of any architectural review board established to receive and administer the whole or any portion of the ARC functions transferred and conveyed to the Association, which are not defrayed by plan review charges; ad valorem real and personal property taxes assessed and levied against the Common Areas; such other expenses as may be determined from time to time by the Board of Directors to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against Lots or Dwellings and the establishment and maintenance of a reasonable reserve fund or funds (a) for maintenance, repair and replacement of those portions of the Common Areas which are the responsibility of the Association and which must be maintained, repaired or replaced on a periodic basis, (b) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (c) to cover unforeseen operating contingencies or deficiencies arising from unpaid assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors; provided, however that during the Declarant Control Period the Board of Directors shall not be required to maintain any reserves and no duty to create or maintain reserves for any purpose shall exist.

4.5.1 Budget.

It will be the responsibility of the Board of Directors at least (30) days prior to the first day of the Association's fiscal year to prepare and approve (subject to Section 3.1.3 above) a budget covering the estimated Common Expenses during the coming year. Such budget may include a reserve account, if necessary, for the capital needs of the Association. In calculating the budget, the Board shall have the power to either reduce the budgeted expenses for the fiscal year being budgeted or to set aside any surplus in such operating and/or capital reserve account as the Board, in its sole discretion, shall determine.

4.5.2 Notice; Rate of Assessment.

In accordance with G.S. 47F-3-103(c) of the North Carolina Planned Community Act, the Board will cause notice of the budget and the proposed total of the annual assessments to be levied against properties subject to this Declaration for the following year to be delivered to each Owner either personally or at the mailing address on file with the Association within thirty (30) days after the adoption of any proposed budget by the Board. Such notice shall set a date for a meeting of the Owners to consider ratification of the budget, such meeting to be held not less than ten (10) days, or more than sixty (60) days after mailing of said notice.

The determination of the total amount of Common Expenses for any given fiscal year of the Association shall be within the sole discretion of the Board. The Board shall allocate assessments for Common Expenses in such amounts to be fixed from year to year and the Board may (but is not obligated to) establish different rates for various general classifications of Lots after considering factors that include (but are not limited to) (i) the use of said Lots; (ii) the location of said Lots; and (iii) the benefits from Common Expenses accruing to said Lots, including, but not limited to, services specially provided by the Association to said Lots and the availability of Limited Common Areas. For example, the Board may allocate in any given fiscal year, assessments for Common Expenses based, at least in part, on whether a Lot is improved or unimproved. It is within the Board's discretion to determine what assessment is warranted in cases where a Lot is combined or subdivided. The Board may also allocate assessments in any given fiscal year for Common Expenses based, in whole or in part, on the number of Lots owned by a Member. For example, as a result of some perceived minimal impact on the community infrastructure, the Board may, in its discretion, levy a reduced assessment for each additional unimproved Lot that a Member owns in the Community. For purposes of illustration only, a Board may charge a full annual and/or special assessment for a Member's Lot and twenty-five percent (25%) of said annual and/or special Assessment for every additional Lot that said Member may own. The Board may also assign different assessment rates based on a designation of Limited Common Areas for a Neighborhood or for one or more Lots. For purposes of N.C. Gen. Stat. §47F-3-115(b) of the Act, the reference to "allocations set forth in the declaration" for Common Expense assessments shall mean the allocations assigned to each Lot as established in the annual budget adopted by the Board for each fiscal year of the Association.

Notwithstanding the above, for a condominium dwelling unit located within the two existing condominium buildings (one of which is complete and one of which is under construction) on the Property, the amount of any annual assessment or special assessment shall be calculated to be no greater than sixty percent (60%) of the corresponding annual or special assessment for a Lot with a completed Dwelling. Notwithstanding anything to the contrary, the Board's authority in this Article is subject to the rights of the Declarant set forth in this Declaration, including, but not limited to, the right of the Declarant to establish different assessment methodologies for additions to the Property pursuant to Section 2.2 above.

4.5.2.1 Cap on Annual Assessments.

Subject to the 60% formula for a condominium in Section 4.5.2, the maximum annual assessment for the fiscal year 2014 shall not exceed \$4,027 for each Lot with a completed Dwelling (as determined by either by a certificate of occupancy or when the Dwelling is otherwise habitable) and \$1524 for each Lot without a completed Dwelling. During the Declarant Control Period, the maximum increase in the annual assessment for Lots with or without completed Dwellings may only be increased by 5% per annum over a period of time of three consecutive fiscal years after the applicable baseline year. After said three consecutive

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d. Shortfalls in Actual Collections: To provide funding for extraordinary and unbudgeted shortfalls in actual collections of assessments, which cannot, in the Board’s reasonable judgment, be delayed until the next budget is prepared.

2. Approval by Declarant and Disapproval of Members

Any special assessment will only be levied if: (a) during the Declarant Control Period, Declarant approves, in writing, such special assessment; and (b) except for Emergency Special Assessments, the special assessment is approved by sixty-seven percent (67%) of the votes cast at a special meeting of Members with a quorum called therefore and held pursuant to the provisions of the By-Laws.

The notices of such special meeting may include one statement from the Directors favoring the special assessment and one statement from those Directors opposing the special assessment containing the reasons for those Directors’ support and opposition for the special assessment, if any such statements are provided by the Directors supporting and opposing the special assessment (Directors being under no obligation to provide such statements). Neither statement, either supporting or opposing the special assessment, will exceed five pages in length.

3. Apportionment

Subject to the rights of a hotel owner referenced in Section 6.5.1 below, special assessments shall be apportioned among the Lots and Dwellings in the same proportion as annual assessments; provided, however, that the Declarant shall pay special assessments for the purposes set forth above based on the number of platted Lots then owned by Declarant and subject to the Declaration.

4. Emergency Special Assessments

Subject to the rights of a hotel owner referenced in Section 6.5.1 below, in addition to the annual assessments and special assessments authorized by this Article, the Association may levy assessments for repairs, reconstruction, alterations or improvements due to emergencies of any type, as determined by the Board, in their sole discretion (“**Emergency Special Assessment**”). Any Emergency Special Assessment may be imposed without a vote of the Members. Emergency Special Assessments will be apportioned among the Lots and Dwellings in the same proportion as Annual Assessments unless it is determined by the Board that another apportionment thereof is more reasonable and more equitably justified by the circumstances giving rise to such emergency. Notwithstanding anything to the contrary, the Declarant shall contribute to Emergency Special Assessments based on the number of platted Lots then owned by Declarant and subject to the Declaration.

4.6 Working Capital Collected at Initial Closing.

Notwithstanding anything to the contrary in this Declaration, a working capital fund will be established for the Association by collecting from each Owner who acquires title to a Lot from Declarant a working capital amount equal to three months of annual assessments, which

amount will be transferred to the Association, at the time of transfer of each Lot by Declarant to any other Owner. SUCH SUM IS AND WILL REMAIN DISTINCT FROM THE ANNUAL ASSESSMENT AND WILL NOT BE CONSIDERED ADVANCE PAYMENT OF THE ANNUAL ASSESSMENT. The working capital receipts may be used by the Association in covering expenses as well as any other expense incurred by the Association pursuant to this Declaration and the By-Laws.

4.7 Date and Commencement of Annual Assessments: Due Dates.

The annual assessments at the time provided for herein shall be collected on an annual basis, with the initial annual assessment due as to each Lot at the time of conveyance of that Lot to an Owner by Declarant and prorated according to the portion of the year during which the Lot is owned by the Owner. At least thirty (30) days in advance of each annual assessment period thereafter, the Board of Directors shall fix the amount of the annual assessment for each Lot. The due date shall be established by the Board of Directors.

4.8 Effect of Nonpayment of Assessments Remedies of the Association.

Any assessment authorized by this Declaration not paid within thirty (30) days after the due date shall bear interest from the due date at an annual rate of eighteen percent (18%). The Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosures of deeds of trust, and interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by abandonment of the Lot, non-use of any Common Areas, nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

4.9 Certificate.

The Treasurer, any Assistant Treasurer or the manager of the Association shall within ten (10) days of a written request and upon payment of a fee set from time to time by the Board of Directors furnish to any Owner or such Owner's Mortgagee which requests the same, a certificate signed by the Treasurer, Assistant Treasurer or manager setting forth whether the assessments for which such Owner is responsible have been paid and if not paid, the outstanding amount due and owing, together with all fines, accrued interest and other penalty charges. Such certificate will be conclusive evidence against all but such Owner of payment of any assessments stated therein to have been paid.

4.10 Subordination of the Lien to Mortgages.

The liens provided for herein on any Lot shall be subordinate to the lien of any Institutional Mortgage on such Lot, but only as to assessments due and payable prior to a foreclosure sale. Any other sale or transfer of any Lot shall not affect the assessment lien or liens provided herein.

4.11 Neighborhoods; Neighborhood Assessments.

The Declarant or the Board of Directors may establish within the Property a Neighborhood in accordance with this Declaration with uniquely similar characteristics, agree to provide services to such Neighborhood in addition to those provided to the Lots and/or Dwellings in the Property generally, and recover all costs and expenses incurred in providing such additional services through the levying of Neighborhood Assessments as additions to the annual assessments due Owners of Lots in such Neighborhood.

4.12 Neighborhood Committees.

In each Neighborhood created, the Owners of Lots in such Neighborhood may as provided for in any Supplemental Declaration elect not less than three (3) nor more than five (5) persons who own or have an interest in any Lot in such Neighborhood to serve on a Neighborhood Committee. The Neighborhood Committee shall consult with the Board of Directors from time to time, but at least annually, on all matters pertaining to the Neighborhood, the level of Neighborhood Assessments, and specific Rules and Regulations for such Neighborhood. Any specific Rules and Regulations for any Neighborhood shall be subject to approval of a majority of the Owners of Lots in such Neighborhood and Declarant during the Declarant Control Period.

4.13 Specific Assessments.

To the extent any sums are due the Association from any Owner which are not paid in full within thirty (30) days after the due date, all such sums shall bear interest at the rate of eighteen percent (18%) until paid in full. In addition, upon written notice given by the Association to any Owner of the intent to levy a specific assessment against the Lot of the Owner, said past due amount shall constitute a specific assessment against the Owner and the Owner's Lot and lien to secure all amounts due to the Association. In such event, the remedies set forth in Section 4.8 above for non-payment of annual or special assessments shall be equally applicable to any specific assessment.

ARTICLE 5

RULES AND REGULATIONS; ENFORCEMENT

5.1 Rules and Regulations.

Subject to the provisions hereof, the Board of Directors may establish reasonable Rules and Regulations concerning the use of Lots, Dwellings and the Common Areas and all services provided to the Owners, including Neighborhoods (subject to the restrictions set forth in Section 4.13) and facilities located thereon. The Association will furnish copies of such Rules and Regulations and amendments thereto to all Owners prior to the effective date thereof. Rules and Regulations will be binding upon the Owners and Occupants until and unless any such rule or regulation is specifically overruled, cancelled or modified by the Board of Directors or any such rule or regulation is disapproved by a majority or more of the votes of the entire Association at a special meeting of Members called therefor and held pursuant to the provisions of the By-Laws, which percentage will also constitute the quorum required for any such meeting. Any action by the Board of Directors to adopt, overrule, cancel or modify any rule or regulation, or any vote of

Members disapproving any rule or regulation, will not be effective and binding upon the Owners and Occupants until and unless the same is approved by Declarant during the Declarant Control Period.

5.2 Authority and Enforcement.

Upon the violation of this Declaration or any Rules and Regulations duly adopted hereunder, including, without limitation, the failure to timely pay any assessments, upon written notice to the alleged violator to cease and desist, the Board will have the power to (a) impose reasonable monetary fines which will constitute an equitable charge and a continuing lien as a specific assessment against the Owner's Lot, to (b) suspend a Member's right to vote in the Association, or to (c) suspend an Owner's or Occupant's right to use any of the Common Areas. The Board will have the power to impose all or any combination of these sanctions and may establish each day a violation remains uncured as a separate violation for which a fine is due; provided, however, an Owner's access to its property over the private roads and streets constituting Common Areas will not be terminated hereunder. An Owner or Occupant will be subject to the foregoing sanctions in the event of such a violation by such Owner or Occupant. Any such suspension of rights may be for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days.

5.3 Hearing.

Upon written request of any alleged violator given to the Association's President within ten (10) days after written notice of the violation is given, the Board of Directors shall schedule an immediate hearing on the alleged violation. The hearing will be held in executive session of the Board of Directors pursuant to notice provided to the alleged violator and will afford the alleged violator a reasonable opportunity to be heard. The minutes of the meeting will contain a written statement of the results of the hearing and the action taken, if any.

ARTICLE 6

ARC APPROVAL; OWNERS' COVENANTS AND USE RESTRICTIONS

6.1 ARC's Approvals.

In order to preserve the natural setting and beauty of the Property, to establish and preserve a harmonious and aesthetically pleasing design for the Property, and to protect and promote the value of the Property, the Lots, Dwellings, and all Improvements located therein or thereon, including connections to utilities services and optical fiber cables, landscaping, grading, excavation, or filling of any nature whatsoever, outside lighting, driveways, mail boxes, decks, patios, courtyards, sculptures, other works of art, flags (except American flags appropriately flown from flat poles), swimming pools, playhouses, outdoor exercise, play and sports equipment and facilities, dog houses, awnings, walls, fences, garages, guest or servants' quarters, or other outbuildings will be subject to the prior review and approval of the ARC in accordance with the Design Guidelines and construction or development work published from time to time by the ARC, and no Dwelling or Improvements of any other nature whatsoever may be altered, added to or maintained upon any part of the Property except in accordance with the Design

Guidelines and approval of the ARC. Any such approval right with respect to Improvements may extend to interior features and aesthetic elements that may be viewed from outside of the structure.

6.1.1 ARC Matters.

Declarant shall initially appoint all the members of the ARC, but Declarant may assign this function to the Association. In any event, after the Declarant Control Period, the ARC shall be appointed by the Association. The Board of the Association shall appoint at least three (3) but no more than seven (7) persons to serve as the ARC. A licensed architect shall serve as a member of the ARC or be engaged by the ARC to provide advise to the ARC. The ARC shall establish procedures for the orderly administration of all requests made by Owners relating to the Governing Documents.

6.1.2 Procedures.

Plans and specifications showing the nature, kind, shape, color, size, materials, location and all other exterior aspects of all proposed Improvements shall be submitted to the ARC for review and approval (or disapproval). In addition, information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable and as required by the Design Guidelines. In reviewing each submission, the ARC may consider the quality of workmanship and design, the harmony of external design with existing structures and the location in relation to surrounding structures, topography and finish grade elevation, among other things. Decisions of the ARC may be based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary as committee members change over time.

In the event that the ARC fails to approve or to disapprove any application within 30 days after submission of all information and materials reasonably requested, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the ARC pursuant to Section 6.1.4.

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

6.1.3 No Waiver of Future Approvals.

Approval of proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings or other matters subsequently or additionally submitted for approval.

6.1.4 Variance.



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

6.1.5 Limitation of Liability.

Review and approval of any application pursuant to this section is made on the basis of aesthetic considerations only, and the ARC shall bear responsibility neither for ensuring the structural integrity or soundness of approved construction or modifications nor for ensuring compliance with building codes and other governmental requirements. The Declarant, the Association, the Board, any committee or member of any of the foregoing shall not be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications to any Improvement. In all matters, the ARC and its members shall be defended and indemnified by the Association as provided in the Governing Documents.

6.1.6 Enforcement.

Any structure or improvement placed or made in violation of this section shall be deemed to be nonconforming. Upon request from the ARC, the violating Owner shall, at such Owner's own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should a violating Owner fail to remove and restore as required, the ARC shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the violating Owner and collected as a specific assessment against such Owner and the Owner's Lot.

The ARC, any of its members, the Association, the Declarant, or their officers or directors shall not be held liable to any Person for exercising the rights granted by this section, and the Owner's remedy for any wrongful conduct shall be limited to an action or specific performance. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this article or the Design Guidelines may be excluded by the ARC from the Property by the Board of Directors.

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

6.1.7 Review Fees. The ARC shall be entitled to require that review fees be paid in advance by each Owner in conjunction with any requested action by the ARC. This fee shall be based on the requested action and on the anticipated out-of-pocket expense to be incurred in administering the request, including professional architectural review costs and general

administrative costs. Such fees shall be included in the Design Guidelines. Review fees may be increased by the ARC with the approval of the Board.

6.1.8 Arbitrary Action. In the event any Owner believes that the ARC has acted in a manner which is arbitrary or capricious, the Owner may appeal the action to the Board of Directors upon written notice to the Chairman of the ARC and the President of the Association. Within thirty (30) days after receipt of such appeal, the Board of Directors shall hold a hearing at which time the Owner shall be entitled to appear before the Board and present evidence in support of the claim of arbitrary or capricious actions. The Board shall also hear from the ARC at such hearing on the issue of the appropriateness of the ARC action. Within thirty (30) days after the hearing, the Board shall issue a written determination as to whether the ARC acted arbitrarily or capriciously and if so, modify the ARC's actions as specified in the written determination in such manner as deemed appropriate by the Board in the exercise of its discretion. Upon issuance of such written determination, the action of the ARC, as may be modified by the Board, shall be deemed the action of the ARC.

6.2 Building Restrictions.

Except as may be otherwise set forth in the Governing Documents or further restricted by any agreement with Declarant or by specific deed restriction, the following restrictions will apply with respect to the Lots:

6.2.1 Square Footage Requirements.

All main Dwellings constructed on the Lots shall have a minimum of two thousand (2,000) square feet of living space, being the enclosed and covered areas within such Dwelling, exclusive of garages, porches, terraces, balconies, decks, patios, courtyard, greenhouses, atriums, storage areas, attics, and basements. Cottage Homes shall be measured on the same basis but shall have a minimum of one thousand six hundred (1,600) square feet of living space and shall be between one and three stories in height. At the ARC's sole discretion, due to specific site or other considerations, the ARC may allow for some portion of decks, porches or other unheated and air-conditioned exterior elements to be credited toward the calculation of the square foot minimum. All two-story homes shall have a minimum of one thousand six hundred (1,600) square feet of living space on the main level, except for Cottage Homes.

6.2.2 Completion of Improvements.

The exterior of all Dwellings and other structures constructed upon any Lot must be completed within eighteen (18) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder thereof due to strikes, fires, national emergencies or natural calamities. No Dwelling under initial construction shall be occupied until construction is completed and all necessary approvals of any governmental authorities have been obtained. For any Lot with any structure for which the Owner has received an occupancy permit, said Lot shall be charged as a completed Dwelling for purposes of Assessments.

6.2.3 Other Requirement of Residences.

In addition, all residential structures constructed on a Lot will be designed and constructed in compliance with the applicable requirements of such political subdivision with jurisdiction thereof.

6.3 Trees.

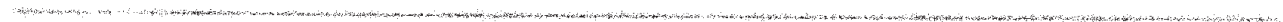
No Owner, other than Declarant, shall be entitled to cut, remove or mutilate any trees, shrubs, bushes, or other vegetation having a trunk diameter of six (6) inches or more at a point of four feet (48") above the ground level, or other significant vegetation as designated from time to time by the ARC, without obtaining the prior approval of the ARC, provided that dead or diseased trees which are inspected and certified as dead or diseased by the ARC or its representatives, as well as other dead or diseased shrubs, bushes, or other vegetation, shall be cut and removed promptly from any Lot by the Owner thereof. Nothing herein shall be construed so as to limit any applicable law or ordinance. Unauthorized removal of trees may be subject to a fine of up to \$10,000.00 and/or require replacement of the trees. Proposed designs, locations of Dwellings and construction of Improvements which require extensive tree removal that may create unsightly conditions or excessive damage to the rim lines and vistas of the Property may be rejected by the ARC in the exercise of its discretion to preserve the overall appearance of the Property.

6.4 Setback Lines.

The ARC shall establish setbacks for all Lots. However, where because of size, natural terrain, or any other reason in the opinion of the ARC, it is in the best interest of the Property that the setback lines of any Lot should be altered or changed, the ARC shall have the right to change said setback lines to address the foregoing conditions.

6.5 Use of Lots and Dwellings.

Except as otherwise expressly authorized in this Declaration, each Lot and Dwelling will be used for residential purposes only, and no trade or business of any kind may be carried on therein. The use of a portion of a Dwelling as an office by an Owner or Occupant will not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic; provided that in no event will any Lot or Dwelling be used as the office or storage area for any building contractor, real estate developer or real estate broker, except as may be on a temporary basis, with the express written approval of the Board and in accordance with the Rules and Regulation. Nothing contained herein shall be construed so as to prohibit the construction of houses to be sold on a Lot or the showing of Dwellings for the purpose of selling houses in the Property; and nothing herein shall be construed to prevent Declarant or its permittees from erecting, placing or maintaining signs, structures and offices as it may deem necessary for its operation and sales in the Property. Lease or rental of a Dwelling for residential purposes will also not be considered to be a violation of this covenant so long as the lease (a) is for not less than the entire Dwelling and all the improvements thereon and (b) is otherwise in compliance with Rules and Regulations. All leases or rental agreements shall be in writing and shall be for a minimum duration of a least two consecutive nights. Upon request, the Owner will provide the Association with copies of such lease or rental agreement. Any Occupant will in all respects be subject to the terms and conditions of the Governing Documents. No commercial



vehicles or equipment may be stored or parked on any Lot except in an enclosed garage or outdoors on a temporary basis while utilized in connection with construction activities to any Improvements.

6.5.1 Hotel; Assessments

Notwithstanding anything to the contrary, the Declarant or its assigns may within the Property, or any addition thereto, or outside the Property construct and operate a hotel and related facilities without the consent of the Association or any of its members. The hotel owner shall, regardless of any assessment or methodology mentioned in this Declaration to the contrary, be responsible for paying annual charges to the Association equal to 25 times the annual assessment for a Lot with a completed Dwelling. No special assessment or emergency special assessment shall be levied or collected from the hotel property owner. Provided, however, the owner of the hotel property reserves the right at any time to terminate upon written notice to the Association its easement right to use the Common Areas on the Property, at which time the obligation to contribute annual assessments shall also terminate. No rules or regulations concerning the use of property, including, without limitation, architectural standards, shall be applicable to the hotel without the hotel owner's written consent, except that reasonable rules and regulations on the vehicular use of Association private roads may apply so long as the operations of the hotel are not materially affected. Provided, however, that hotel guests must check-in prior to entry onto the Property with golf carts or other hotel property vehicles. The easements described in Section 7.5.1 below shall be appurtenant to the lands comprising the hotel (as delineated in Declarant's discretion) whether or not made a part of the Property, subject to the right of termination specified above.

6.6 Antennas.

No television antenna, radio receiver, satellite dish or other similar device may be attached to or installed on any portion of the Property, except as required by the Telecommunications Act of 1996 and implementing rules therefor issued by the Federal Communications Commission and by the Association in conformity with rules or guidelines of the Federal Communications Commission; provided, however, Declarant and the Association will not be prohibited from installing equipment necessary for security, mobile radio or other similar systems within the Property.

6.7 Water Wells/Septic Tanks.

No private deep water well may be drilled, installed or maintained on any Lot. A shallow well pump may be authorized by the ARC, in its sole and absolute discretion, following written application therefor by an Owner for lawn and garden use if tests indicate water is satisfactory and will not cause staining of improvements. Furthermore, the ARC may authorize shallow wells for closed-end, geo-thermal residential systems. So long as sewer service is provided to any Lot, no private septic tank may be installed or maintained on any Lot or Common Areas.

6.8 Clotheslines.

No clotheslines or drying yards shall be located upon the premises so as to be visible from Common Areas or from any adjoining property or Lot.

6.9 Storage Tanks.

Any propane gas tanks shall be buried underground on the Lot and the lid shielded from the view from any road by plantings or other means approved by the ARC. No other storage tanks of any kind shall be permitted without the prior written approval of the ARC.

6.10 Firearms and Fireworks.

No firearms or fireworks of any variety shall be discharged anywhere on the Property, including the Lots, in any Dwelling or upon Common Areas, except within a Declarant or Board-approved gun range. The term "firearms" shall include, without limitation, B-B guns and pellet guns.

6.11 No Above Ground Utilities.

All electrical service, cable television, optical fiber cable, telephone lines and other service lines shall be placed underground and no outside lines shall be placed overhead; provided, however, that the normal service pedestals, etc., used in conjunction with such underground utilities shall be permitted within the Property. Overhead utilities shall be permitted during the construction period and until utility companies can place them underground.

6.12 Signs.

Except as may be required by law or by legal proceedings, no signs or advertising posters of any kind, including, but not limited to, "For Rent," "For Sale," and other similar signs, shall be erected on any Lot by an Owner, the Association, or any agent, broker, contractor or subcontractor thereof, nor shall any sign or poster be maintained or permitted on any window or on the exterior of any Improvements or on any unimproved portion of the Property, unless authorized by the Rules and Regulations or the express written permission of the ARC is obtained. The approval of any signs and posters, including, without limitation, name and address signs, shall be upon such conditions as may be from time to time determined by the ARC and may be arbitrarily withheld. Notwithstanding the foregoing, the restrictions of this section shall not apply to Declarant or to any person having the prior written approval of Declarant. In addition, the Association shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas in accordance with standards adopted therefor by the ARC and approved by any governmental authority having jurisdiction over such signage.

6.13 Pets.

No animals of any kind shall be kept by any Occupant upon any portion of the Property, provided that a reasonable number of generally recognized house pets (not to exceed the maximum number specified by the Association from time to time) may be kept in Dwellings in compliance with all Rules and Regulations and further provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purpose; provided further,

however, any exterior dog houses, kennels, fenced runs or pens for the housing of any pet shall be subject to the approval of the ARC, which it may grant or deny in its sole discretion. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. Pets shall be under leash at all times when walked or exercised in any portion of the Common Areas, and the owner of such pet shall clean up after such pet. Upon the written request of any Occupant, the Association may conclusively determine, in its sole and absolute discretion, whether, for purposes of this section, a particular pet or breed is a generally recognized house pet or such pet is a nuisance or creates a threat to persons that the Association deems unacceptable, and the Association shall have the right to require the owner of any such pet or breed to remove and keep such pet from the Property. The Association shall have the further right to fine any Occupant for the violation of these restrictions by such Occupant, and the Occupant shall be liable to the Association for the cost of repair of any damage to the Common Areas caused by the Occupant's pet. In addition, any such fine or cost of repair shall become a personal obligation of the Owners in whose Dwelling the Occupant resided or under whose authority the Occupant came into the Property; and such fine or costs shall be added to and become a part of that portion of any assessment next coming due for which such is responsible.

6.14 Drainage and Disturbances.

No Owner shall dam or impound any stream or channel or direct drainage water except in accordance with a drainage plan approved by Declarant. No Owner shall make any change to or modification of the grades, swales and slopes of the Owner's Lot in any way that changes or impedes the originally established flow of storm water drainage, except as approved by the ARC in connection with approval of the plans for a Dwelling. No Owner shall engage in the recovery of any minerals, hydrocarbons or other subsurface materials or otherwise disturb subsurface areas except in connection with the construction of Improvements on a Lot approved by the ARC. There shall be no direct discharge of collected storm water (such as collected from roof gutters) to surface waters of the State of North Carolina located on any portion of the Property, and all Owners shall be responsible to properly design, construct and maintain drainage systems and features on their respective Lots to avoid any violation of this prohibition.

6.15 Nuisances.

No rubbish or debris of any kind will be dumped, placed or permitted to accumulate upon any portion of the Property, nor will any nuisance or odors be permitted to exist or operate upon or arise from the Property, so as to render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using or occupying any other portions of the Property. Noxious or offensive activities will not be carried on in any part of the Property, and the Association and each Owner and Occupant will refrain from any act or use which could cause disorderly, unsightly or unkempt conditions, or which could cause embarrassment, discomfort, annoyance or nuisance to the Occupants of other portions of the Property, which could result in an increase in premiums or cancellation of any insurance for any portion of the Property, which could impair the structural integrity of any Improvement or the exterior appearance thereof, or which would be in violation of any applicable law or governmental code or regulation. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices, except security and fire alarm devices used exclusively for such purposes, will be located, used or placed within the Property, except as may be permitted pursuant to the Rules and

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Regulations. Any Owner or Occupant who dumps or places any trash or debris upon any portion of the Property will be liable to the Association for the actual costs of removal thereof plus any fine set therefor by the Association and such sum will be added to and become a part of that portion of any assessment next becoming due to which such Owner and his property is subject. If any contractor, subcontractor or materialman violates this prohibition on dumping of trash or debris, the Owner of the Improvements upon which such party was working or supplying services or materials shall be liable in the same manner as if the Owner committed the violation.

6.16 Motor Vehicles, Trailers, Boats, Etc.

Each Owner will provide for parking of automobiles off the streets and roads within the Property. There will be no outside storage or parking upon any portion of a Lot of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pick-up trucks and those designed for golf course or other unlicensed electric vehicles), commercial vehicles of any type, camper, motorized camper or trailer, boat or other watercraft, boat trailer, motorcycle, motorized bicycle, motorized go-cart, or any other related forms of transportation devices, except in a Dwelling's garage or a designated remote outdoor storage area created by Declarant or the Association and generally screened from view; provided, however, that parking outside for brief periods to load and/or unload vehicles otherwise permitted limited access to the Property is allowed. Any permitted parking of a mobile or motor home within a garage will not be construed as to permit any person to occupy such mobile or motor home, which is strictly prohibited. Furthermore, although not expressly prohibited hereby, the Association may at any time prohibit or write specific restrictions with respect to the operating of mobile homes, motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, motorized go-carts, all terrain vehicles (ATVs) and other similar vehicles, or any of them, except golf carts, upon any portion of the Property if in the opinion of the Association such prohibition or restriction will be in the best interests of the Property. Such policies may change from time to time with changing technology. The storage of any such vehicles within a garage will be permitted, even if operating the same is prohibited. No Owners or Occupants will repair or restore any vehicle of any kind upon or within Lots or the Common Areas except (a) within enclosed garages or (b) for emergency repairs and then only to the extent necessary to enable the movement thereof to a proper repair facility.

6.17 Garbage Disposal/Burning.

Each Owner shall provide garbage receptacles or similar facilities in accordance with standards established by the Association (which may include a roll-out garbage rack of a type approved by the Association that shall be visible from the streets on garbage pickup days only) and comply with all requirements for garbage pickup. No garbage or trash incinerator shall be permitted upon the premises. No burning, burying or other disposal of garbage, trash, vegetation or other materials on any Lot or within the Property shall be permitted (except Declarant and licensed contractors may burn vegetation and construction debris if and to the extent authorized by the Design Guidelines); provided, however, Declarant shall be permitted to modify the requirements of this section where necessary to comply with orders of governmental bodies. All Owners shall comply with all provisions.

6.18 Owner's Landscape Maintenance Between Lot Line and Adjacent Paving.

Each Owner shall maintain on a regular basis the landscaping, if any, and ground cover on the Owner's Lot, adjacent to the rights-of-way bordering the Owner's Lot, whether or not such area is a part of the Owner's Lot. To the extent the Association does not expressly agree to maintain unpaved portions of rights-of-way, each Owner shall be required to maintain ground cover within the unpaved area of right-of-way immediately adjacent to the Owner's Lot, and such maintenance will be of such a quality as is required to keep consistency in appearance and cleanliness from the Lot to the roadway. An Owner's responsibility under this section to provide regular maintenance must be fulfilled regardless of whether or not an Owner permanently resides in the Property. Owners shall not permit shrubbery or other landscaping hedges to reach heights that disturb air circulation, obstruct views from surrounding property or create a traffic hazard as determined by the ARC.

6.19 Development, Sales and Construction Activities.

Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, Declarant and its agents, employees, successors and assigns, including any builder to which Declarant assigns the rights hereunder and as may be further restricted by Declarant under any such assignment, are permitted to maintain and carry on such facilities and activities as may be reasonably required, convenient or incidental to the development, completion, improvement and sale of the whole or any portion of the Property, including, without limitation, the installation and operation of development, sales and construction trailers and offices, signs and models, provided that the location of any such trailers of any assignees of Declarant's rights under this section are subject to Declarant's prior written approval. The rights under this section to maintain and carry on such facilities and activities will include specifically the right to use Dwellings as models and as offices for the sale or lease of Lots and Dwellings and for related activities.

6.20 Use of Trademark.

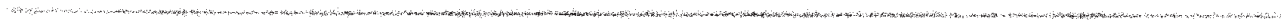
Each Owner and Occupant, by acceptance of a deed to any lands, tenements or hereditament within the Property hereby acknowledges that "Bright's Creek" is a service mark and trademark. Each Owner and Occupant agrees to refrain from misappropriating or infringing this service mark or trademark or other service marks or trademarks of Declarant or the Association.

6.21 Owner Restrictions Placed on Property.

No Owner may impose additional restrictive covenants on any Lot beyond those contained in this Declaration without approval of the Association; provided, however, that Declarant may impose additional restrictive covenants on Lots then owned by Declarant without the consent of any other Owner or the Association.

6.22 Use of Common Areas.

All Owners, Occupants, invitees, guests and other persons visiting the Property shall comply with all Rules and Regulations and shall not undertake, cause or allow any construction or alteration of the Common Areas, except with the express authorization of the Association. In



general, the Common Areas shall be utilized only in a prudent and reasonable manner for the intended purposes with due regard for the preservation of the Common Areas and the safety and security of all other persons and all Improvements located on the Property. Each Owner shall be responsible for any damage or casualty caused to the Common Areas by any person who has accessed the Property upon the invitation or under the authority of the Owner or any member of the Owner's immediate family, including all Occupants of the Owner's Dwelling. In particular, all Occupants shall comply with all Rules and Regulations related to the use and parking of vehicles on the Property, including, without limitation, the observation of speed limits and requirements for the operation of golf carts, and violations shall subject the appropriate Occupants and Owners to fines as discussed in the Rules and Regulations.

6.23 Mail Service.

At the election of the Association, United States mail service and/or overnight pickup and delivery service may be restricted to deliveries at a central pickup and delivery site located in reasonable proximity to the main entrance to the Property or in the Clubhouse Area operated under the supervision of employees or agents of the Association, its manager or an affiliate of either. In such event, individual mailboxes shall not be permitted.

6.24 Owner's Re-Subdivision.

No Common Areas or Lot will be subdivided, or its boundary lines changed, nor will application for the same be made to any political subdivision with jurisdiction thereof, except with the prior written approval of the Association. However, Declarant reserves the right to so subdivide, and to take such other steps as are reasonably necessary to make the re-platted property suitable and fit as a building site, including, but not limited to, the relocation of easements, walkways, rights-of-way, private roads, bridges, parks, and Common Areas.

6.24.1 Consolidation of Lots.

The provisions of this section will not prohibit the combining of two (2) or more contiguous Lots into one (1) larger Lot. Following the combining of two (2) or more Lots into one (1) larger Lot, only the exterior boundary lines of the resulting larger Lot will be considered in the interpretation of this Declaration. Consolidation of Lots, as described herein, must be approved by Declarant during the Declarant Control Period and thereafter by the Board of Directors, said approval to be granted in its respective sole discretion upon the terms and conditions established by it from time to time, including specific provisions for the payment of assessments.

6.25 Assignment of Declarant's Rights to the Association.

The Declarant reserves the right to assign to the Association, at its sole discretion, its rights reserved in this Declaration, including all rights set forth in this Article 3. The Association hereby agrees to accept any and all assignments of rights hereunder, and no further action will be required by it.

6.26 Declarant's Improvements.

Anything contained herein to the contrary notwithstanding, neither the improvements constructed and used by Declarant in the conduct of its business or its activities are or will be subject to the restrictions set forth in this Article 6.

6.27 Other Rights and Reservations.

THE OMISSION OF ANY RIGHT OR RESERVATION IN THIS ARTICLE WILL NOT LIMIT ANY OTHER RIGHT OR RESERVATION BY THE DECLARANT WHICH IS EXPRESSLY STATED IN OR IMPLIED FROM ANY OTHER PROVISIONS IN THIS DECLARATION INCLUDING ADDRESSING MATTERS BY PROMULGATING RULES AND REGULATIONS.

ARTICLE 7

EASEMENTS

7.1 Common Areas.

All Common Areas shall be subject to a perpetual non-exclusive easement or easements in favor of all Owners for all Occupants on their Lots, including their use and the use of their immediate families, guests, invitees, tenants and lessees for all normal, proper and intended purposes; provided, however, that all utilization of the Common Areas shall be in compliance with all applicable provisions of the Governing Documents, including the Rules and Regulations.

7.2 Golf Facilities Easements.

There is hereby reserved for the benefit of Declarant and the Association, a right and easement over the Common Areas and Lots adjacent to the Golf Facilities to permit the doing of every act necessary and proper to the playing of golf on the golf course. These acts shall include, but not be limited to, the recovery of golf balls, the flight of golf balls over and upon such real estate, the use of necessary and usual equipment upon such golf course, the usual and common noise level created by the playing of the game of golf, together with all other common and usual activity associated with the game of golf and with all the normal and usual activity associated with the operation of a golf club. Neither golfers nor their caddies shall be entitled to enter on Lots with a golf cart or other vehicle, spend unreasonable time on Lots, enter into and upon any structure thereon or in any way commit a nuisance while on Lots. All Owners shall be obligated to refrain from any action, which would detract from the playing qualities of the Golf Facilities or the development of an attractive overall landscaping plan for the Golf Facilities area. Such prohibited actions shall include, but are not limited to, such activities as entering upon the golf course for any purpose other than the playing of golf pursuant to the rules and regulations of the Club, the maintenance of dogs or other pets on a Lot under conditions interfering with play due to their loud barking, running on the fairway, picking up balls, or other like interference with play. The existence of this easement shall not relieve golfers of liability, if any, for damage caused by errant golf balls. However, under no circumstances shall any of the following Persons be held liable, if any, for any damage or injury resulting from errant golf balls or the exercise of this easement: the Declarant, or any successor Declarant; the Association or its Members (in their capacities as such); the owner(s) of the Non-Association Amenities or their successors,

successors-in-title, or assigns; any building contractor (in its capacity as such); any officer, director, shareholder, partner, member or other equity holder of any of the foregoing, or any officer, director, shareholder, partner, member or other equity holder in any of the foregoing.

7.3 Encroachments.

All Lots and Common Areas shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by Declarant to the extent that such initial improvements actually encroach, including, without limitation, such items as driveways and walls. If any encroachment shall occur subsequent to subjecting the Property to this Declaration as a result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same. Every Lot shall be subject to an easement for entry and encroachment by Declarant for a period not to exceed eighteen (18) months following conveyance of a Lot to an Owner for the purpose of correcting any problems that may arise regarding grading and drainage. The Declarant, upon making entry for such purpose, shall restore the affected Lot to as near the original condition as practicable.

7.4 Access, Ingress and Egress; Private Roadways.

All Owners, by accepting title to any Lot, waive all rights of uncontrolled and unlimited access, ingress and egress to and from such Lot and acknowledge and agree that such access, ingress, and egress will be limited to roads, sidewalks, walkways and paths located within the Property from time to time, provided that pedestrian and vehicular access to and from all such Lots will be provided at all times, subject to casualty, force majeure, emergencies, adverse weather, maintenance activities and other events beyond the Association's control. Subject to the right of Declarant to dedicate any roadways within the Property, there is reserved unto Declarant, the Association, and their respective successors and assigns, the right and privilege, but not the obligation, to maintain guarded or electronically-monitored gates controlling vehicular access to and from the Property, provided that access to the Property may be granted to any person who gives evidence satisfactory to entry guards, if there are any, that entry is with the specific permission of an Owner or his duly authorized agent. Neither Declarant nor the Association will be responsible, in the exercise of its reasonable judgment, for the granting or denial of access to the Property in accordance with the foregoing.

NEITHER DECLARANT NOR THE ASSOCIATION SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF ANY GATE OR CONTROLLED ACCESS TO THE PROPERTY OR SAFETY MEASURES UNDERTAKEN WITH RESPECT THERETO BY EITHER OR BOTH OF THEM, NOR SHALL EITHER OR BOTH BE LIABLE FOR ANY LOSS OR DAMAGE RESULTING FROM ANY FAILURE TO PROVIDE CONTROLLED ACCESS OR SAFETY MEASURES, OR FROM LEAVING ANY GATE OPEN, OR FROM A FAILURE OR INEFFECTIVENESS OF ANY SUCH CONTROLLED ACCESS OR SAFETY MEASURES UNDERTAKEN BY EITHER OR BOTH OF THEM. NO REPRESENTATION, WARRANTY OR COVENANT IS GIVEN TO ANY OWNER OR OCCUPANT BY EITHER OR BOTH OF DECLARANT

AND THE ASSOCIATION THAT ANY CONTROLLED ACCESS OR SAFETY MEASURES INSTALLED OR UNDERTAKEN CANNOT BE BYPASSED OR COMPROMISED, OR THAT THEY WOULD, IN FACT, AVERT DAMAGE OR LOSS RESULTING FROM THAT WHICH THEY ARE DESIGNED TO PREVENT, AND EACH OWNER BY ACCEPTANCE OF A DEED TO A LOT OR DWELLING AND EACH OCCUPANT THEREOF SHALL INDEMNIFY AND HOLD DECLARANT AND THE ASSOCIATION HARMLESS FROM ANY DAMAGE AND COSTS AND EXPENSES, INCLUDING ATTORNEY FEES, INCURRED BY EITHER OR BOTH OF THEM AS A RESULT OF ANY SUCH ASSERTION OR DETERMINATION.

7.4.1 Traffic Regulations.

In order to provide for safe and effective regulation of traffic, Declarant reserves the right to make appropriate laws governing the operation of motor vehicles on public roads in North Carolina applicable to all of the private streets and roadways within the Property. Moreover, Declarant may promulgate from time to time additional parking and traffic regulations, which will supplement the above-mentioned North Carolina regulations as it relates to conduct on, over and about the private streets and roadways in the Property. These supplemental regulations will initially include but will not be limited to those set out hereinafter and Declarant reserves the right to adopt additional regulations or to modify previously promulgated regulations from time to time and to make such adoption or modification effective thirty (30) days after mailing notice to the Owners.

7.5 Easements for Declarant.

During the period that Declarant owns any of the Lots, Declarant will have a right and easement on, over, through, under and across the Common Areas for the purpose of constructing Improvements on the Lots and for installing, maintaining, repairing and replacing other Improvements to the Property contemplated by this Declaration or as Declarant desires, in its sole discretion, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event will Declarant have the obligation to do any of the foregoing.

7.5.1 Easements for Non-Association Amenities and Additional Property; Hotel; Golf Facilities and Sporting Club Facilities.

There is hereby reserved for Declarant and its successors and/assigns, for the benefit of and appurtenant to the Additional Property and Non-Association Amenities and specifically granted to the owner of any hotel property referenced in Section 6.5.1, the owner of the Golf Club Facilities referenced in the Club Membership Plan and the owner of the Sporting Club facilities referenced in the Sporting Club Membership Plan, whether or not such properties are part of the Property, perpetual, non-exclusive rights and easements for (a) pedestrian, vehicular, and golf cart ingress, egress, regress and parking over, across, within and on all private roads

located within the Common Areas or within easements serving the Common Areas, (b) the installation, maintenance, repair, replacement and use of utility facilities and distribution lines of any kind and type, including, without limitation, drainage systems, storm sewers, electrical, gas, telephone, internet, water, sewer and mast television antenna and/or cable system lines over, across, within and on any portion of the Property; and (c) drainage and discharge of surface water onto and across any portion of the Property, provided that such drainage and discharge shall not materially damage or affect the then existing Property or any improvements located thereon. Except for the hotel as provided for in Section 6.5.1, the Association shall be solely responsible for the costs associated with the maintenance, repair, and/or improvement of any Association-owned road, utility or property over which the above easements run, except to the extent of actual damages caused by the holder of any such easements and no assessments, annual, special or otherwise shall be collectable from the owner of the Golf Club Facilities or the owner of the Sporting Club Facilities. So long as the hotel does not terminate as specified in Section 6.5.1 its rights to use the Common Areas described above, the hotel shall be responsible to the Association for annual assessments in accordance with the formula in Section 6.5.1. The Declarant shall have the right to limit or modify any easements described above by filing of record an instrument doing so.

7.6 Changes in Boundaries; Additions to Common Areas.

Declarant expressly reserves the right to change and realign the boundaries of the Common Areas, the Non-Association Amenities and any unconveyed Lots between such adjacent properties owned by Declarant, provided that any such change or realignment of boundaries will not materially decrease the acreage of the Common Areas. Any such change shall be evidenced by a revision of or an addition to the Site Plan filed of record in Polk County, North Carolina.

7.7 Fire Breaks.

There is hereby reserved for the benefit of Declarant and the Association a right and easement on and over and under any Lot or portion of the Common Areas to cut firebreaks and undertake other activities, which in the opinion of the holder are necessary or desirable to control fires. Entrance upon any real property pursuant to this provision will not be deemed a trespass.

7.8 Easements for Utilities.

There is hereby reserved for the benefit of Declarant and the Association the right and easement, as well as the power to grant and accept easements to and from any public authority or agency, public service district, public or private utility or other person, upon, over, under and across (a) all of the Common Areas in accordance with this Declaration; (b) as shown on the Site Plan; (c) other such easement areas recited in any supplement to this Declaration adding Additional Property to the Property; and (d) on any Lot, but only within ten (10) feet of the boundary lines of any such Lot; with such right and easement to be utilized for the purpose of installing, replacing, repairing, maintaining and using master television antenna and/or cable systems, security and similar systems and all utilities, including, but not limited to, storm sewers and drainage systems and electrical, gas, telephone, water, sewer, optical fiber and other communication lines. Such easements may be granted or accepted by Declarant or by the

Association. To the extent practicable, all utility lines and facilities serving the Property and located therein will be located underground. By virtue of any such easement, it will be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Property so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes, or shrubbery, (iii) to grade, excavate, or fill, or (iv) to take any other similar action reasonable necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and systems.

7.9 Easement for Trails and Signs.

There is hereby reserved for the benefit of Declarant and the Association a right and easement upon, over and across all portions of the Common Areas on which improvements are not constructed or erected for the installation, maintenance and use as recreational hiking and bicycle pathways or trails ("trail system"), as well as for traffic directional signs and related improvements. The trail system shall not interfere with or inhibit the anticipated uses of the Common Areas.

7.10 General Association Easement.

There is hereby reserved for the benefit of the Association and to any manager employed by the Association and any employees, agents or contractors of either a general right and easement to enter upon the Property, including any Lot, in the performance of their respective duties as specified in the Governing Documents. This includes providing insect and reptile control, mowing, removing, clearing, cutting, or pruning underbrush, weeds, stumps or other unsightly growth, installing, constructing, repairing, replacing and maintaining erosion control devices and removing trash, so as to maintain reasonable standards of health, fire safety and appearance within the Property, provided that such easements will not impose any duty or obligation upon the Association to perform any such actions, or to provide garbage or trash removal services. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner directly affected thereby. To the fullest extent practicable, this easement shall apply only to unimproved portions of any Lot and shall not materially and adversely affect any Dwellings.

7.11 Environmental Easement.

There is hereby reserved for the benefit of Declarant and the Association a right and easement on, over and across all unimproved portions of the Property for the purpose of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Association or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water, and the right to dispense pesticides.

7.12 Irrigation Wells and Pumps.

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requirements of any mortgages or financing agreements to which the Common Areas and any improvements thereon may be subject.

8.1.2 The Association shall apply the full amount of any insurance proceeds to the rebuilding or repair of any said improvement, subject to the concurrence of any mortgage or lien holder having a right to control the application of such proceeds.

8.1.3 Premiums for the group or blanket hazard insurance policy and the general public liability policy shall be a common expense and shall be collectible in the same manner and to the same extent as provided for annual and special assessments in Article 4.

8.1.4 All Owners shall, at their own expense, carry adequate hazard and homeowners insurance policies insuring the Dwelling and other Improvements on the Owner's Lot.

8.2 Association's Obligations.

In the event any Improvements to the Common Areas are damaged or destroyed, the Association shall promptly proceed with repair or reconstruction to the fullest extent that funds are then available for such purpose. To the extent sufficient funds do not then exist, appropriate action shall be undertaken to complete repairs or reconstruction in an orderly manner as funds become available from assessments as elsewhere provided in this Declaration, unless within 60 days after such casualty, the Board and Members representing at least sixty seven percent (67%) of the total votes of the Members of the Association shall otherwise agree.

8.3 Owner's Obligations.

In the event a Dwelling is damaged or destroyed and the Owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, the Owner shall remove or cause to be removed, at the Owner's expense, all debris from the Lot, so that it shall be placed in a neat, clean and safe condition and if Owner fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the Lot until paid by the Owner and may be foreclosed in the same manner set forth in Article 4 for liens for assessments.

8.3.1 Any Dwelling which has been destroyed in whole or in part by fire or other casualty shall be subject to the provisions of this Declaration requiring ARC approval but in any event may be restored or reconstructed to substantially the same condition that existed prior to casualty.

8.4 Condemnation.

If any part of the Common Areas shall be taken or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least sixty seven percent (67%) of the total votes of the Members in the Association or by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Areas on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Areas to the extent available, unless within 60 days after such taking, the Board and Members representing at least 67% of the total votes of the Members of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions regarding funds for the repair of damage or destruction in the event of a casualty shall apply equally to this section.

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

ARTICLE 9

RIGHT OF FIRST REFUSAL

9.1 Lot Purchase Option.

The Declarant will have the right and option to purchase any Lot or Dwelling that is offered for sale by the Owner thereof, such option to be at the price and on the terms and conditions of any bona fide offer therefor which is acceptable to such Owner and which is made in writing to such Owner by a prospective purchaser capable of consummating the subject transaction for his own account (the "Prospective Purchaser"). The Owner will promptly submit a copy of the same to Declarant, and Declarant will have a period of ten (10) business days (exclusive of Saturday, Sunday and Federal holidays) from and after receipt of such offer in which to exercise its purchase option by giving such Owner written notice of such exercise in accordance with this section. If Declarant fails to respond or to exercise such purchase option within the said ten (10) business day period, Declarant will be deemed to have waived such purchase option. If Declarant responds by declining to exercise such option, Declarant will execute an instrument evidencing its waiver of its repurchase option, which instrument will be in recordable form. In the event that Declarant does not exercise its purchase option and such sale to the Prospective Purchaser is not consummated on such terms and conditions set forth in the bona fide offer within six (6) months of the date in which the offer is transmitted to Declarant, or within the period of time set forth in such bona fide offer, whichever is later, the terms and limitations of this section will again be imposed upon any sale by such Owner. If Declarant elects to purchase, the transaction will be consummated within the period of time set for closing in said bona fide offer, or within thirty (30) days following delivery of written notice by Declarant to such Owner of Declarant's decision to so purchase such Lot or Dwelling, whichever is later. This right of first refusal may be assigned by Declarant to the Association, whereupon the Association or its designee shall be entitled to exercise the option set forth herein.

9.2 Inter-family Transfers.

Any Owner may sell or convey his Lot to his spouse, to his lineal descendant, or to any trust in which his spouse and/or lineal descendants are the beneficiaries of a majority of the corpus or any entity in which more than fifty (50%) percent of the beneficial and voting interests

are owned by the Owner's spouse, his lineal descendants or a trust created for their benefit, without first offering said Lot for sale to Declarant as provided above.

9.3 Mortgage.

Any Owner may convey his Lot by mortgage or deed of trust for the purpose of obtaining a bona fide loan to be secured by such Lot without first offering said Lot for sale to Declarant as provided above; provided, however, that in the event of a foreclosure of such mortgage or deed of trust by the holder thereof, a copy of the notice of sale shall be delivered to Declarant at least twenty (20) days prior to the date of the sale.

ARTICLE 10

NON-ASSOCIATION AMENITIES

10.1 General.

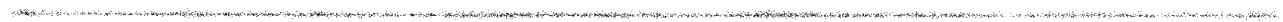
Neither membership in the Association nor ownership or occupancy of a Lot shall confer any ownership interest in or right to use any Non-Association Amenity. Rights to use the Non-Association Amenities will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the respective owners of the Non-Association Amenities.

10.2 View Impairment.

Neither the Declarant, the Association, nor the owner of any Non-Association Amenity, guarantees or represents that any view from Lots over and across any Non-Association Amenity, the Common Areas or any public facilities will be preserved without impairment. The owners of such property shall have no obligation to prune or thin trees or other landscaping and shall have the right, in their sole and absolute discretion, to add trees and other landscaping to the Non-Association Amenities, the Common Areas or the public facilities from time to time. In addition, the owner of any Non-Association Amenity, which includes any Golf Facilities, may, in its sole and absolute discretion, change the location, configuration, size and elevation of the trees, bunkers, fairways and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Lot and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

10.3 Rights of Access.

There is hereby established for the benefit of the Non-Association Amenities and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all roadways located within the Property reasonably necessary to travel between the entrance to the Property and the Non-Association Amenities (including all maintenance areas, irrigation areas and other portions thereof) and over those portions of the Property (whether Common Areas or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Non-Association Amenities.



contained within the Property, the use of the subject real estate shall be limited to the activities reasonably related directly or indirectly to the recreational use to which such Non-Association Amenities were designed; and the maintenance of all improvements utilized for the Non-Association Amenities shall at all times be in keeping with prevailing maintenance practices for amenities located in first class residential developments similar to Bright's Creek. In this regard, the owner of the golf course may construct a lodge, cabins and/or other similar facilities to be occupied primarily for the overnight lodging of persons utilizing the golf facilities.

ARTICLE 11

GENERAL PROVISIONS

11.1 Control of Declarant.

NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION, IN THE ARTICLES OF INCORPORATION OR IN THE BY-LAWS OF THE ASSOCIATION, Declarant hereby retains for the duration of the Declarant Control Period the right to appoint and remove any member or members of the Board of Directors and any officer or officers of the Association.

11.1.1 Creation of New Board.

Upon the expiration of the Declarant Control Period, election of the Board will pass to the Members as provided in the By-Laws. Following election of a new Board of Directors, Declarant will deliver all books, accounts and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession.

11.2 Amendments by Declarant.

During the Declarant Control Period, Declarant may amend this Declaration or the By-Laws by an instrument in writing filed of record without the approval of any Owner or Mortgagee; provided, however, that, (a) in the event that such amendment has a material adverse effect upon any Owner's rights hereunder or adversely affects the title to any Lot or Dwelling, such amendment will be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby; and (b) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment will be valid only upon the written consent thereto of all such Mortgagees so affected. Any amendment made pursuant to this section will be certified by Declarant as having been duly approved by Declarant, and by such Owners and Mortgagees if required, and will be effective only upon it being filed of record or at such later date as will be specified in the amendment itself.

Following the Declarant Control Period, this Declaration and the By-Laws may be amended solely by Declarant filing same of record if such amendment is necessary, in the reasonable determination of Declarant, (i) to bring any provision hereof or thereof into

The provisions of this Declaration will run with and bind title to the Property, will be binding upon and inure to the benefit of all Owners and Mortgagees, and will be and remain in effect for a period of thirty (30) years from and after the date this Declaration is filed of record, provided that rights and easements which are stated herein to have a longer duration will have such longer duration. Upon the expiration of said thirty (30)-year period, this Declaration will be automatically renewed for successive ten (10)-year periods. The number of ten (10)-year renewal periods will be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10)-year renewal period for an additional ten (10)-year period; provided, however, that there will be no renewal or extension of this Declaration, if, during the last year of an initial thirty (30)-year period or the last year of any ten (10)-year renewal period, 75% or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members called for the purpose of approving the proceeding, which percentage will also constitute the quorum required, approve terminating this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, an instrument evidencing such termination will be filed of record, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in any Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration will run with and bind title to the Property as provided hereby.

11.5 Interpretation.

In all cases, the provisions set forth or provided for in this Declaration will be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors, will best effect the intent of the general plan of development. The provisions hereof will be liberally interpreted and, if necessary, they will be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration will be given full force and effect notwithstanding the existence of any zoning ordinance or building codes that are less restrictive. The effective date of this Declaration will be the date of its filing of record. The captions of each article and section hereof as to the contents of each article and section are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular article or section to which they refer.

11.6 No Affirmative Obligation Unless Stated.

ANY RESERVATION OR RIGHT OF THE DECLARANT WHICH IS STATED IN OR IMPLIED FROM THIS DECLARATION WILL NOT GIVE RISE TO ANY AFFIRMATIVE OBLIGATION OR DUTY ON THE PART OF THE DECLARANT UNLESS EXPRESSLY STATED IN THIS DECLARATION.

11.7 No Implied Liabilities or Duties.

ANY RULES OR REGULATIONS ESTABLISHED BY THE DECLARANT PURSUANT TO THIS DECLARATION WILL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY PROPERTY OWNER.

11.8 Gender and Grammar.

The singular wherever used herein will be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, will in all cases be assumed as though in each case fully expressed.

11.9 Severability.

Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property will be prohibited or held invalid, such prohibition or invalidity will not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end, the provisions of this Declaration are declared to be severable.

11.10 Rights of Third Parties.

This Declaration will be filed of record for the benefit of Declarant, the Owners, and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party will have any right, title or interest whatsoever in the Property, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and Mortgagees as herein provided, the Owners will have the right to extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any adjoining owner or third party.

11.11 No Trespass.

Whenever the Association, Declarant, or the ARC or any authorized Persons are permitted by this Declaration to enter upon, correct, repair, clean, maintain, preserve, or do any other action within any portion of the Property, the entering thereon and the taking of such action will not deem to be a trespass.

11.12 Notices.

Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owners' respective Lots. All notices to the Association shall be delivered or sent in care of Declarant to Declarant's main office, 2222 Palmer Road, Mill Spring, North Carolina 28756, or to such other address as the Association may from time to time notify the Owners. All notices to Declarant will be delivered or sent to Declarant's main office, 2222 Palmer Road, Mill Spring, North Carolina 28756, or to such other address as Declarant may from time to time notify the Association. Notices to Mortgagees will be delivered or sent to such addresses as such Mortgagees specify in writing to the Association. Notices to any other person or persons entitled to same hereunder will be delivered or sent to such address or addresses as such person or persons specify, from time to time, in writing to the sender, or, in the absence thereof, to such address or addresses as will, in the exercise of reasonable judgment by the sender, allow notices to be received by such person or persons.

.....

11.13 Benefit and Standing. This Declaration is intended to protect the interests of the Association, the Owners and Occupants and all other Persons having an economic in the Property. The provisions of this Declaration shall be enforced in a reasonable manner, as deemed appropriate by the Board of Directors, on behalf of all benefited Persons. Any Owner or Occupant shall have the right to require the Association to take action with respect to all material violations of this Declaration in a manner consistent with normal property management activities of first class residential communities located in North Carolina.

11.14 Dispute Resolution Costs. Should any litigation arise out of or related to the Governing Documents, the prevailing party shall be entitled to recover from the non-prevailing party reasonable legal fees and direct costs incurred in resolution of the legal proceeding (including collection of all amounts due hereunder).

11.15 Governing Law. This Declaration will be construed under and in accordance with the laws of the State of North Carolina.

11.16 Legal Actions by the Association. Notwithstanding anything to the contrary, the affirmative vote of no less than 67% or more of the Lots owned by Members of the Association, not including the Declarant, shall be required in order for the Association to (1) file a complaint on account of an act or omission of Declarant with any governmental agency; or (2) assert a claim against or sue Declarant.

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BRIGHT'S CREEK PROPERTY OWNERS ASSOCIATION, INC.

By: *Major Schutt*
President, Board of Directors

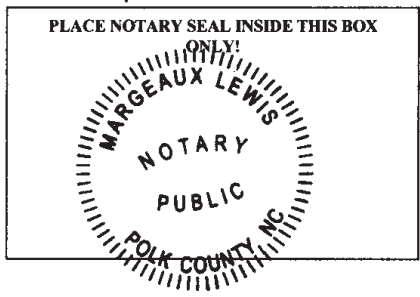
STATE OF North Carolina
COUNTY OF POLK

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Major Schutt, as **President of the Bright's Creek Property Owners Association, Inc.**

Date: April 1st 2014

Margeaux Lewis
Notary Public Signature

Margeaux Lewis
(Printed Name of Notary)
My Commission Expires: 2-2019




We, the undersigned President and Secretary of the Bright's Creek Property Owners Association, Inc. do hereby certify the following to be a resolution adopted by the Board of Directors of said corporation:

WHEREAS, the agreement of the required parties was lawfully obtained for the foregoing amendment, being that more than 67% of the votes of the entire Association are in the affirmative to adopt."

THEREFORE, BE IT RESOLVED THAT the requisite officers of the corporation be, and they are hereby, authorized and directed to present said amendment for recordation on the public record, and to certify to the adoption of said amendment by the requisite number of Owners.

This the 1st day of APRIL, 2014.



Major Schutt, President



Terry LaMore, Secretary

EXHIBIT "A"

**Legal Description of the Property
(Phase I)**

Being all of that property shown on the following Plats of Bright's Creek, Phase 1, all recorded in the Polk County Public Registry:

- Card File E at Page 1166
- Card File E at Page 1167
- Card File E at Page 1168
- Card File E at Page 1169
- Card File E at Page 1222
- Card File E at Page 1223
- Card File E at Page 1224
- Card File E at Page 1225
- Card File E at Page 1226
- Card File E at Page 1227
- Card File E at Page 1228
- Card File E at Page 1229
- Card File E at Page 1230
- Card File E at Page 1231
- Card File E at Page 1232
- Card File E at Page 1166

Being all of that property shown on the following Plats of Bright's Creek, Phase 1, all recorded in the Polk County Public Registry:

- Card File E at Page 1467

Being all of the property shown on the following Plats of Bright's Creek, Phase II, all recorded in the Polk County Public Registry:

- Card File E at Page 1611, Lots 2002-2024 & 2033 & 2037
- Card File E at Page 1612, Lots 2025-2032 & 2034-2036 & 2038-2047 & 2043 -2056
- Card File E at Page 1613, Lots 2059-2071 & 2102-2112 & 2114-2121 & 2142-2143 & 2075-2076
- Card File E at Page 1614, Lots 2128 & 2138-2140
- Card File E at Page 1615, Lots 2057-2058 & 2077-2079 & 2084-2093 & 2098-2100 & 2144
- Card File E at Page 1735, Lots 2025-2032 & 2034-2036 & 2038-2047 & 2043-2056
- Card File E at Page 1736, Lots 2059-2071 & 2102-2112 & 2114-2121 & 2142-2143 & 2075-2076
- Card File E at Page 1737, Lots 2057-2058 & 2077-2079 & 2084-2093 & 2098-2100 & 2144

Page 52 of Map Book E at Page 1796
Map Book E, Page 1797
Map Book E, Page 1798
Map Book E, Page 1799
Map Book E, Pages 1837 and 1838

BEING all of that 0.3 acres, more or less described in Book 377, Page 1127

HTPL: 554909v1

2

EXHIBIT "B"

**BYLAWS
OF
BRIGHT'S CREEK PROPERTY
OWNERS ASSOCIATION, INC.**

HTPL: 554909v1

1

**BYLAWS
OF
BRIGHT'S CREEK PROPERTY
OWNERS ASSOCIATION, INC.**

ARTICLE 1

NAME AND LOCATION

1.1 Name and Location.

The name of the corporation is BRIGHT'S CREEK PROPERTY OWNERS ASSOCIATION, INC., hereinafter referred to as the "Association." The principal office of the Association shall be located at the Property, or at such other place as may be designated by the Board.

ARTICLE 2

DEFINITIONS

2.1 Incorporation.

The definitions contained in the Declaration are incorporated by reference herein.

2.1.1 The Declaration.

"Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Bright's Creek recorded in the Register of Deeds office for Polk County, North Carolina, and all subsequent amendments thereto and modifications thereof.

ARTICLE 3

MEETING OF MEMBERS AND VOTING

3.1 Annual Meeting.

The first annual meeting of the Members shall be held on such day and at such time as Declarant shall specify and which shall occur during the calendar year 2014. Subsequent annual meetings of the Members shall be held thereafter at a date and place as specified by resolution of the Board of Directors.

3.2 Special Meetings.

Special meetings of the Members shall be promptly scheduled at any time by the Board upon vote of a majority of the Board of Directors or upon written request of the President. A special meeting of the Members shall be called upon written demand delivered to the Secretary by the Members representing ten percent (10%) of the Class A Members of the Association, notice of which shall be by written notice to all Members within thirty (30) days of the

Secretary's receipt of the demand. For purposes of determining the ten percent (10%) requirement, the record date shall be thirty (30) days before delivery of the written demand. Upon the failure of the Association to send notice of a special meeting within thirty (30) days following delivery of written demand as aforesaid, any Member signing the demand may set the time and place of the special meeting and give notice thereof to all Members in accordance with the Act.

3.3 Notice and Place of Meetings.

Unless otherwise provided in the Declaration, the Articles of Incorporation, in these By-Laws, or in the Act, written notice of each meeting of the Members, annual or special, shall be given by, or at the direction of, the Secretary, by mailing a copy of such notice, first class mail, postage prepaid, at least thirty (30) but not more than sixty (60) days before such meeting to each Member, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. In the case of written demand of Members representing ten percent (10%) of the total voting power of the Association, written notice of such meeting shall be given not more than thirty (30) days after written demand is delivered to the Association. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting, and shall provide for voting by proxy. If action is proposed to be taken at any meeting for approval for any of the following proposals, the notice shall also state the general nature of the proposal: (a) removing a Director without cause; (b) filling vacancies in the Board of Directors by the Members; or (c) amending the Articles of Incorporation. Meetings shall be held within the Property or at a meeting place within the same county, as close to the Property as possible.

Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, either before or after the meeting. The waiver must be delivered to the Association for inclusion in the minutes or filing with the corporate records. Attendance of a Member at a meeting, in person or by proxy, shall of itself constitute waiver of notice, except when the Member attends a meeting solely for the purpose of stating his objection, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is not lawfully called or convened. Objection by a Member shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

3.4 Quorum.

Unless otherwise provided herein, in the Declaration, the Articles of Incorporation, or the Act, the presence of Members representing one-third (1/3) of the votes of all Members, in person or by proxy, shall constitute a quorum for the transaction of business. The Members present at a duly called or held meeting at which a quorum of one-third (1/3) of the votes of all Members is present may continue to do business until adjournment, notwithstanding the withdrawal from the meeting of enough Members to leave less than such required quorum, provided that Members representing twenty percent (20%) of the total votes of the Association remain present in person and/or by proxy, and provided further that any action taken shall be approved by a majority of the Members required to constitute such quorum. If the required quorum is not present, another meeting may be called, not less than ten (10) nor more than sixty (60) days following the first

meeting, and the required quorum at the subsequent meeting shall be the Members present, in person or by proxy, and entitled to vote. Unless otherwise provided, any reference hereafter to "votes cast" at a duly called meeting shall be construed to be subject to the quorum requirements established by this section. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed in Section 3.3.

3.5 Ballots and Representative Voting.

3.5.1 Voting Referendum; Written Ballots.

Subject to the requirements of the Act if greater than as hereafter required, any vote of Members on a matter that would be cast at an annual, regular or special meeting may be taken, without a meeting, by written ballot delivered to every Member by the Association. The ballot shall set forth the matter to be voted upon and provide thereon a place to vote for or against such matter. Approval by written ballot without a meeting shall be effective only when the number of votes cast by ballot equals or exceed the quorum required to be present had the matter been considered at a meeting, and the number voting for the matter equals or exceeds the number of votes required to approve it had the matter been considered at a meeting at which the requisite quorum is present. A solicitation of votes by ballot shall (i) indicate the record date for Members eligible to vote; (ii) indicate the number of returned ballots voting for or against the matter that is required to satisfy the quorum requirement; (iii) state the required number of votes or percentage voting in favor of the matter required to approve it (except in the case of election of directors, which shall be by plurality); and (iv) state the date and time by which a Member's completed ballot must be received by the Secretary in order to be counted in the vote to be taken. A ballot, once delivered to the Secretary, may not be revoked. A Member's signed ballot shall be delivered to the Secretary by hand delivery, by U.S. mail, or by such other means as shall be permitted under North Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

3.5.2 Proxies.

At all meetings of Members, each Member may vote in person or by proxy. The appointment form of proxy shall be in writing and received by the Secretary before the appointed time of the meeting. Every proxy appointment shall automatically cease upon conveyance by the Member of his Lot or Dwelling, or upon receipt of written notice by the Secretary of the death or judicially declared incompetence of a Member prior to the counting of the vote, upon revocation of the appointment of the proxy in accordance with the Act, the expiration date specified in the proxy, if any, or upon the expiration of eleven (11) months from the date of the proxy. Unless the proxy appointment form otherwise states, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. Any proxy appointment form distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon as set forth in the notice of the meeting. The

appointment shall provide that, where the Member specifies a choice, the vote shall be cast by the proxy in accordance with that choice. The form shall also identify the person or persons acting as the proxy and the length of time it will be valid. In addition, voting by a proxy shall comply with any other applicable requirements of the Act. The Member's signed proxy appointment form shall be delivered to the Secretary by hand delivery, by U.S. mail, and by such other means as shall be permitted under North Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

3.6 Membership and Voting.

Membership in the Association will be as set forth in the Declaration and in the Articles of Incorporation. Except as otherwise provided in the Declaration, the Articles of Incorporation, these By-Laws, or the Act, any action by the Association which must have the approval of the Members before being undertaken shall require voting approval by a majority of the votes cast by Members present at a meeting at which the required quorum is present. An abstention shall be counted as a negative vote in calculating the majority. During the Declarant Control Period, memberships shall be divided into Class A and Class B Members for the sole purpose of computing voting rights but there shall not be class voting. Owners of Lots and Dwellings in all phases shall be Class A Members and be entitled to cast one (1) vote per Lot or Dwelling owned. During the Declarant Control Period, Declarant shall be the sole Class B Member and shall be entitled to cast one (1) vote for each vote of the Class A Members plus one (1) vote for each Lot owned by it. The total vote shall be the votes of all Class A Member and the votes of Class B Members, with each Class A Member vote being equivalent to one Class B Member vote. Class B memberships shall cease at the end of the Declarant Control Period, and there shall be only one class of memberships thereafter.

3.7 Eligibility to Vote.

Voting rights attributable to Lots and Dwellings shall not vest until assessments against those Lots and Dwellings have been levied by the Association. Only Members in good standing shall be entitled to vote on any issue or matter presented to the Members for approval. In order to be in good standing, a Member must be current in the payment of all assessments levied against the Member's Lots or Dwellings or not be subject to any suspension of voting privileges as a result of disciplinary proceeding otherwise conducted in accordance with the Declaration. A Member's good standing shall be determined as of the record date established in accordance with Section 3.8. Failure to be in good standing due to nonpayment of assessments as of the record date shall constitute an automatic suspension without the need for further notice. The Association shall not be obligated to conduct a hearing in order to suspend a Member's voting privileges on the basis of the nonpayment of assessments, although a delinquent Member shall be entitled to request such a hearing.

3.8 Record Dates.

3.8.1 Record Dates Established by the Board.

For the purpose of determining which Members are entitled to receive notice of any meeting, vote, act by written ballot without a meeting, or exercise any rights in respect to any other lawful action, the Board may fix, in advance, a "record date," and only Members of record on the date so fixed are entitled to notice, to vote, or to take action by written ballot or otherwise, as the case may be, notwithstanding any transfer of any membership on the books of the Association after the record date, except as otherwise provided in the Articles of Incorporation, by agreement or in the Act. The record dates established by the Board pursuant to this section shall be as follows:

(a) Record Date for Notice of Meetings.

In the case of determining those Members entitled to notice of a meeting, the record date shall be no more than ninety (90) nor less than ten (10) days before the date of the meeting;

(b) Record Date for Voting.

In the case of determining those Members entitled to vote at a meeting, the record date shall be no more than sixty (60) days before the date of the meeting;

(c) Record Date for Action by Written Ballot Without Meeting.

In the case of determining Members entitled to cast written ballots, the record date shall be no more than sixty (60) days before the day on which the first written ballot is mailed or solicited; and

(d) Record Date for Other Lawful Action.

In the case of determining Members entitled to exercise any rights in respect to other lawful action, the record date shall be no more than sixty (60) days prior to the date of such other action.

(e) "Record Date" Means as of the Close of Business.

For purposes of this subparagraph A, a person holding a membership as of the close of business on the record date shall be deemed the Member of record.

(f) Failure of Board to Fix a Record Date.

If the Board, for any reason, fails to establish a record date, rules set forth in the Act shall apply.

3.9 Action Without Meeting.

Any action that may be taken at any annual or special meeting of Members (except the election of Directors) may be taken without a meeting in accordance with the provisions of the Act.

3.10 Ballots.

Any form of written ballot distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon, except it shall not be mandatory that a candidate for election to the Board be named in the written ballot. The written ballot shall provide that, where the Member specifies a choice, the vote shall be cast in accordance with that choice.

3.11 Conduct of Meetings.

Meetings of the membership of the Association shall be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Association may adopt. Except as otherwise provided by law, any proper matter may be presented at the meeting for action. Members of the Association shall have access to Association records in accordance with the Act. No Member of the Association shall have any right as an Association Member to attend any meeting of the Board, except such meetings of the Board as the Board of Directors shall, in the exercise of its sole discretion, open to the membership or any other Person. In any matter relating to the discipline of an Association Member, the Board shall always meet in closed session if requested by that Member, and the Member shall be entitled to attend such closed session.

ARTICLE 4

BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

4.1

The affairs of the Association shall be managed by a Board of Directors, all of whom, except for Declarant-appointed directors, must be Members of the Association, or an officer, director, employee or agent of a Member. The Board of Directors shall consist of a minimum of three (3) but not more than nine (9) persons, the number of seats being fixed by Declarant during the Declarant Control Period and thereafter by resolution of the Board. Declarant shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association pursuant to the Declaration until the expiration of the Declarant Control Period; provided, however, that the Declarant may at any time allow the Members to elect any number of Directors without being deemed to have altered or waived in any way its right to appoint or remove any director (including Member-elected) or officer during such period, and provided also that all members of the Board of Directors, including Declarant-appointees shall be subject to N.C. Gen. Stat. 55A-8-30 and 31. In order to implement this reserved right, the Declarant may direct the Board to call a special meeting of the Association for the purpose of conducting elections of selected seats and to establish the term of office for each seat, which provision shall control over anything in these Bylaws to the contrary. Notwithstanding the above, the number of director seats comprising the Board shall always be an odd number. Within sixty (60) days after the expiration of the Declarant Control Period, the Members shall elect at least five (5) new directors. The Association shall give not less than thirty (30) days' notice of such special meeting of the Members to elect the Board of Directors or the date on which the Association

1. This document is the property of the Association and is to be used only for the purposes stated herein. It is to be kept confidential and its contents are not to be disclosed to any other person without the prior written consent of the Association. If you are not a member of the Association, you are not to disseminate this document to any other person. If you are a member of the Association, you are not to disseminate this document to any other person without the prior written consent of the Association. If you are a member of the Association, you are not to disseminate this document to any other person without the prior written consent of the Association.

shall count the written ballots distributed to the Members with such notice for the election of the Board of Directors. Each year thereafter, the Members shall elect such number of Directors as shall exist whose terms are expiring. Notwithstanding Section 4.2, if the number of Board members to be elected after the expiration of the Declarant Control Period exceeds five (5) seats, then the terms of each seat comprising that Board may be established in a staggered manner by the out-going Board in the notice of election, not to exceed a three (3) year term for any seat.

The Board may appoint an executive committee at any time. If such committee is appointed during the Declarant Control Period and there are Member-elected directors on the Board, then in that case, at least one Executive Committee seat shall be reserved for a Member-elected director.

4.2 Term of Office.

The election of Directors shall be by plurality, the number of nominees equal to the number of vacancies to be filled receiving the greatest number of votes being elected. However, at the meeting of the Association following expiration of the Declarant Control Period held to elect five (5) Directors or the date following expiration of the Declarant Control Period when written ballots are to be counted for the election of such Directors pursuant to Section 4.1, the two (2) nominees receiving the highest number of votes will each be elected for a term of two (2) years, and the next three (3) nominees receiving the highest number of votes will each be elected for a term of one (1) year. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve for a term of two (2) years. Unless vacated sooner, each Director shall hold office until the Director's term expires and a successor is elected.

4.3 Removal; Vacancies.

A Director appointed by Declarant may only be removed by Declarant; otherwise, a Director may be removed from office, with or without cause, at any regular or special meeting of the Members by sixty-seven percent (67%) of the votes of the Members voting in person or by proxy at a meeting at which a quorum is present. A successor to any removed Director may be elected at the same meeting at which the vacancy is created by the removal of the Director. A Director whose removal is proposed to be voted upon at any meeting shall be given notice of the proposed removal not less than 10 days prior to the date of the meeting and shall be given an opportunity to be heard at the meeting. In the event of death or resignation of a Director, the vacancy shall be filled by majority vote of the remaining Board at a duly held meeting or by the sole Director if only one Director remains. A successor Director shall serve for the unexpired term of his or her predecessor. The Members may elect a Director at any time to fill any vacancy not filled by the Board.

4.4 Compensation.

No Director shall receive compensation for any service rendered to the Association. However, any Director may be reimbursed for his actual expenses, if reasonable, that are incurred in the performance of his duties, including, but not limited to, travel expenses.

4.5 Indemnification of Corporate Agents.

The Association shall indemnify any present or former Director, officer, employee or other agent of the Association to the fullest extent authorized under the Act, or any successor statute, and may advance to any such person funds to pay expenses that may be incurred in defending any action or proceeding on receipt of an undertaking by or on behalf of such person to repay such amount unless it is ultimately determined that such person was not entitled to indemnification under this provision.

ARTICLE 5

NOMINATION AND ELECTION OF DIRECTORS

5.1 Nomination.

Nomination for election to the Board of Directors may be made by a Nominating Committee established by the Board of Directors, otherwise upon motion or other procedure adopted therefor by the Board. Notice to the Members of the meeting shall include the names of all those who are nominees at the time the notice is sent. Nominations to be placed on the ballot may also be solicited by the Nominating Committee or the Board from the membership, and if the election is to take place at a meeting and not solely by written ballot, nominations may also be made from the floor at the meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than sixty (60) days prior to the meeting of the Members at which the election is to be held, or if the election is to take place solely by written ballot not less than sixty (60) days prior to the date set on the ballot as the election date when ballots are to be counted, and shall serve until the close of the election. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. All candidates shall have reasonable opportunity to communicate their qualifications to Members and to solicit votes.

5.2 Election.

The first election of the Board shall be conducted as set forth in Section 4.1 . At such election the Members or their proxies may cast as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. No cumulative voting shall be permitted. Voting for Directors at a meeting shall be by secret written ballot. Voting for Directors may also be conducted by written ballot pursuant to Section 3.5.1.

ARTICLE 6

MEETINGS OF DIRECTORS

6.1 Regular Meetings.

Regular meetings of the Board of Directors shall be held at least annually at such place within the Property and at such hour as may be fixed from time to time by resolution of the

Board. If a larger meeting room is required than exists within the Property, the Board shall select a room as close as possible to the Property. Should a regularly scheduled meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday, excluding Saturday and Sunday.

6.2 Special Meetings.

Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President or Secretary of the Association, or by any two (2) Directors. Notice of the special meeting shall specify the time and place of the meeting and the nature of the special business to be considered.

6.3 Quorum.

A majority of the Directors then in office (but not less than two (2)) shall constitute a quorum for the transaction of business. Every act performed or decisions made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by a majority of the Directors required to constitute such quorum for that meeting. Notwithstanding the above, for major decisions described in Section 3.1.3 of the Declaration, a super majority of directors as delineated therein shall be necessary as the act of the Board.

6.4 Executive Session.

The Board may adjourn any meeting and reconvene in executive session to discuss and vote upon personnel and matters involving contracts of which the Association is a party, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session, and any required Board action shall be voted on only in open session.

6.5 Telephone Meetings.

Any meeting, regular or special, may be held by conference telephone or similar communication equipment, so long as all Directors participating in the meeting can hear one another, and all such Directors shall be deemed to be present in person at such meeting. An explanation of the action shall be filed with the minutes of the proceedings of the Board.

6.6 Waiver of Notice.

The transaction of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (i) a quorum is present and (ii) either before or after the meeting, each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minute. The waiver of notice or consent need not specify the purpose of the meeting. Notice

of a meeting shall also be deemed given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

6.7 Notice of Adjourned Meeting.

Notice of the time and place of reconvening an adjourned meeting need not be given, unless the meeting is adjourned for more than twenty-four (24) hours, in which case personal notice of the time and place shall be given to the Directors who were not present at the time of the adjournment before the time of reconvening the adjourned meeting.

6.8 Action Without Meeting.

Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

6.9 Notices Generally.

Notice of any meeting of the Board of Directors, whether regular or special, shall be given to each Director by one (1) of the following methods: (i) by personal delivery; (ii) written notice by first class mail, postage prepaid; (iii) by telephone communication, either directly to the Director or to a person at the Director's office who would reasonably be expected to communicate such notice promptly to the Director; (iv) by telegram, charges prepaid; or (v) by facsimile transmission to the fax number of the Directors or to e-mail address of the Directors, with proof of transmission and receipt thereof being retained in the minutes of the meeting. All such notices shall be given or sent to the Director's address, telephone number, fax number or e-mail address as shown on the records of the Association. Such notice shall be sent to all Directors not less than seventy-two (72) hours prior to the scheduled time of the meeting, provided, however, notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notice of any meeting need not be given to any Director who has signed a waiver of notice or written consent to holding of the meeting.

ARTICLE 7

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

7.1 Duties.

It shall be the duty of the Board of Directors to:

7.1.1 Maintenance.

Perform the maintenance described in the Declaration.

7.1.2 Insurance.

Maintain insurance as required by the Declaration.

7.1.3 Discharge of Liens.

Discharge by payment, if necessary, any lien against the Common Areas and assess the cost thereof to the Member or Members responsible for the existence of the lien (after notice and hearing as required by these By-Laws).

7.1.4 Assessments.

Fix, levy, collect and enforce assessments as set forth in the Declaration.

7.1.5 Expenses and Obligations.

Pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the property of the Association.

7.1.6 Records.

Cause to be kept minutes of annual meetings of Members and to present such minutes to the Members at the next annual meeting of the Members; minutes of any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A Members; and adequate and correct books and records of account, minutes of proceedings of its Board and committees, and a roll of its Members giving their names and addresses and classes of membership.

7.1.7 Supervision.

Supervise all officers, agents and employees of the Association, and see that their duties are properly performed.

7.1.8 Review of Financial Records.

Review on at least a quarterly basis a current reconciliation of the Association's operating and reserve accounts, the current year's actual reserve revenues and expenses compared to the current year's budget, and an income and expense statement for the Association's operating and reserve accounts. In addition, the Board shall review the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts. For purposes herein, "reserve accounts" shall mean monies that the Association's Board has identified for use to defray the future repair or replacement of, or additions to, the major components, which the Association is obligated to maintain.

7.1.9 Reserve Account Withdrawal Restrictions.

Require that at least two (2) signatures are needed for the withdrawal of monies from the Association's reserve accounts, at least one (1) of whom shall be a member of the Board. One (1) signature may be that of the Association's manager or such manager's designee.

7.1.10 Reserve Account Fund Management.

The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement or maintenance of, or litigation involving the repair, restoration, replacement or maintenance of, major components which the Association is obligated to repair, restore, replace or maintain and for which the reserve fund was established.

7.1.11 Reserve Studies.

At least every five (5) years, the Board shall cause an independent analysis of the reserve component of the operating budget to be conducted to confirm that component replacement costs and useful lives are accurately reflected in the reserve allocation.

7.2 Powers.

The Board of Directors shall have power to:

7.2.1 Manager.

Employ a manager as provided in the Declaration.

7.2.2 Adoption of Rules.

Adopt rules in accordance with the Declaration, including rules setting aside Common Areas parking spaces as handicap parking only, and adopt rules limiting the number of cars that will be permitted to be parked in the Common Areas parking spaces.

7.2.3 Assessments, Liens and Fines.

Levy and collect assessments and impose fines as provided in the Declaration.

7.2.4 Enforcement.

Enforce these By-Laws and/or the Declaration as provided in the Declaration.

7.2.5 Contracts.

Contract for goods and/or services in accordance with the Declaration.

7.2.6 Delegation.

Delegate its authority and powers to committees, officers or employees of the Association or to a manager employed by the Association. The Board may not delegate the authority to procure insurance; make capital expenditures for additions or improvements

chargeable against the reserve funds; conduct hearings concerning compliance by an Owner or his tenant, lessee, guest or invitee with the Declaration or Rules and Regulation promulgated by the Board; make a decision to levy monetary fines, impose special assessments against individual Lots and Dwellings, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline following any such hearing; make a decision to levy annual or special assessments; or make a decision to bring suit, record a claim of lien, or institute foreclosure proceedings for default in payment of assessments. Any such delegation shall be revocable by the Board at any time. The members of the Board, individually or collectively, shall not be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated by written instrument executed by a majority of the Board.

7.2.7 Borrowings.

Borrow money (i) for the purpose of improving the Property, or any portion thereof, (ii) for constructing, repairing, maintaining or improving any facilities located or to be located within the Common Areas, (iii) for providing services authorized herein, and (iv) to give as security for the payment of any such loan a mortgage or other security instrument conveying all or any portion of the Common Areas; provided, however, that the lien and encumbrance of any such security instrument given by the Association will be subject and subordinate to any and all rights, interest, options, licenses, easements and privileges herein reserved or established for the benefit of Declarant, any Owner or the holder of any Mortgage, irrespective of when such Mortgage is executed or given.

7.2.8 Other Powers.

In addition to any other power contained herein or in the Declaration, the Association may exercise the powers granted to a nonprofit mutual benefit corporation as enumerated in the Act.

7.2.9 Prohibited Acts.

The Board shall not take any of actions prohibited of it under the Declaration except with the vote or written consent of a majority of the Members other than Declarant.

ARTICLE 8

OFFICERS AND THEIR DUTIES

8.1 Enumeration of Officers.

The officers of this Association shall be a President and Secretary, who shall at all times be members of the Board of Directors; a Vice President; a Treasurer and such other officers as the Board may from time to time by resolution create.

8.2 Election of Officers.

Declarant shall have the sole right to appoint and remove officers during the Declarant Control Period. Thereafter, all officers shall hold office at the pleasure of the Board.

8.3 Term.

The Board shall elect the officers of this Association annually and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise become disqualified from serving.

8.4 Special Appointments.

The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

8.5 Resignation and Removal.

Any officer may be removed from office, with or without cause, by the Board, but not from the Board, if the officer is also a Board member. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

8.6 Vacancies.

A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

8.7 Duties.

The duties of the officers are as follows:

8.7.1 President.

The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall sign all promissory notes. The President shall have the general powers and duties of management usually vested in the office of the President of a North Carolina nonprofit mutual benefit corporation and shall have such powers and duties as may be prescribed by the Board or by these By-Laws.

8.7.2 Vice President.

The Vice President shall act in the place of the President in the event of his absence, inability or refusal to act and shall exercise and discharge such other duties as may be required by the Board.

8.7.3 Secretary.

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with the addresses; and shall perform such other duties as required by the Board. The ministerial functions of the Secretary in recording votes, keeping minutes, sending notices, and keeping the records of names and addresses of Members may be delegated to an Association manager.

8.7.4 Treasurer.

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all promissory notes of the Association; shall keep proper books of account; and shall prepare and distribute budgets and statements. The ministerial functions of the Treasurer in sending assessment notices, receiving and depositing assessments, keeping books and ledgers of account, and preparing and distributing budgets and statements may be delegated to an Association manager.

ARTICLE 9

COMMITTEES

9.1 Appointment.

An ARC shall be appointed as provided in the Declaration, and a Nominating Committee may, in the discretion of the Board, be appointed as provided in these By-Laws. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purpose. No committee, regardless of Board resolution, may: (i) take any final action on matters which, under the Act also requires Members' approval; (ii) fill vacancies on the Board of Directors or in any committee; (iii) amend or repeal By-Laws or adopt new By-Laws; (iv) amend or repeal any resolution of the Board of Directors; (v) appoint any other committees of the Board of Directors or the members of those committees; (vi) approve any transaction to which the Association is a party and in which one (1) or more Directors or committee members have a material financial interest.

ARTICLE 10

BOOKS AND RECORDS

10.1

Inspection by Members.

Subject to federal or state privacy laws, and Board policy, to the extent required by the North Carolina Planned Community Act (Chapter 47F of the North Carolina General Statutes) or the North Carolina Nonprofit Corporation Act (Chapter 55A), the Board shall make reasonably available for examination and copying by any member in good standing the following Association records: membership list showing the member names and lot numbers; membership or Board meeting minutes; and an annual income and expense statement and balance sheet pursuant to G.S. 47F-3-118 Such inspection may occur at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association or at such other place within the Property as the Board shall prescribe. Board minutes shall be available to Members within thirty (30) days of the meeting and shall be distributed to any Member upon request and upon reimbursement of the costs in making that distribution.

10.2 Rules for Inspection.

The Board shall establish reasonable rules with respect to:

10.2.1 Notice to be given to the custodian of the records by the Member desiring to make the inspection;

10.2.2 Hours and days of the week when such an inspection may be made;

10.2.3 Payment of the cost of reproducing copies of documents requested by a Member.

10.3 Inspection by Directors.

Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents, at the expense of the Association.

10.4 Documents Provided by Board.

Upon written request, the Board shall, within ten (10) days of the mailing or delivery of such request, provide an Owner with a copy of the governing documents of the Property, a copy of the most recent budget and statements of the Association, and a true statement in writing from an authorized representative of the Association as to the amount of the Association's current annual and special assessments and fees, as well as any assessments levied upon the Owner's interest which, as of the date of the statement, are or may be made a lien upon the Owner's Lots or Dwellings. The Board may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

ARTICLE 11

MISCELLANEOUS

11.1 Amendments.

Prior to close of the sale of the first Lot or Dwelling, Declarant may amend these By-Laws. After sale of the first Lot or Dwelling, these By-Laws may be amended only as provided in the Declaration or in the Act.

11.2 Conflicts.

In the case of any conflict between the Articles of Incorporation and the By-Laws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

11.3 Fiscal Year.

Unless directed otherwise by the Board, the fiscal year of the Association shall begin on the first day of January and end on the thirty-first (31st) day of December of every year, except that the first fiscal year shall begin on the date of incorporation.