


FOR REGISTRATION JUDITH A. GIBSON
REGISTER OF DEEDS
MECKLENBURG COUNTY, NC
2007 APR 17 10:03 AM
BK: 22077 PG: 93-153 FEE: \$191.00
INSTRUMENT # 2007076304

2007076304

DRAWN BY AND MAIL TO:

G. Robert Turner, III, Esq.
Horack Talley Pharr & Lowndes, P.A. (RD Box #194)
301 South College Street, Ste. 2600
Charlotte, North Carolina 28202-6038

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

EACH PERSON ACQUIRING A LOT IN CHEVAL IS BOUND BY ALL OF THE TERMS AND PROVISIONS OF THIS DECLARATION AND MUST READ IT IN ITS ENTIRETY IN ORDER TO BE FULLY AWARE OF ALL REQUIREMENTS IMPOSED.

AMONG SUCH REQUIREMENTS ARE THE FOLLOWING:

- THAT EACH OWNER OF A LOT BE A MEMBER OF, AND PAY ASSESSMENTS TO, THE CHEVAL PROPERTY OWNERS ASSOCIATION, INC.
- THAT APPROVAL OF THE ARCHITECTURAL CONTROL COMMITTEE BE OBTAINED BEFORE COMMENCEMENT OF ANY IMPROVEMENTS UPON OR DISTURBANCE OF A LOT, AS MORE PARTICULARLY SET FORTH IN ARTICLE VIII OF THIS DECLARATION.

THE RECITATION OF CERTAIN REQUIREMENTS OF THIS DECLARATION ABOVE DOES NOT RELIEVE ANY OWNER OF A LOT IN CHEVAL FROM THE REQUIREMENTS OF ALL PROVISIONS OF THIS DECLARATION AND ANY AMENDMENTS TO THIS DECLARATION WHICH MAY HEREAFTER BE RECORDED.

AS SET FORTH IN THIS DECLARATION, THE DECLARANT RESERVES TO ITSELF THE RIGHT TO MODIFY, ALTER OR CHANGE THE DEVELOPMENT PLAN FOR CHEVAL, CONSISTENT WITH THE UNIFORM SCHEME OF DEVELOPMENT FOR CHEVAL. DECLARANT HAS RESERVED CERTAIN RIGHTS TO UNILATERALLY AMEND THIS DECLARATION, AS PROVIDED IN ARTICLE XII, SECTION 3 HEREOF. DECLARANT HAS ALSO RESERVED THE RIGHT TO ANNEX ADDITIONAL PROPERTY INTO CHEVAL.

TABLE OF CONTENTS

ARTICLE I.	DEFINITIONS	2
Section 1.	“Accessory Structure” or “Accessory Structures”	2
Section 2.	“Additional Property”	2
Section 3.	“Architectural Control Committee”	2
Section 4.	“Articles of Incorporation”	2
Section 5.	“Association”	2
Section 6.	“Board” or “Board of Directors”	2
Section 7.	“Bylaws”	2
Section 8.	“Builder”	2
Section 9.	“Certificate of Occupancy”	2
Section 10.	“Common Area” or “Common Areas”	2
Section 11.	“Conservation Easement”	3
Section 12.	“CPI”	3
Section 13.	“Declarant”	3
Section 14.	“Declaration”	3
Section 15.	“Dwelling Unit”	3
Section 16.	“Equestrian Facility”	3
Section 17.	“Entrance Easements”	3
Section 18.	“Featured Builder”	3
Section 19.	“Guidelines”	4
Section 20.	“Improvement”	4
Section 21.	“Limited Common Area”	4
Section 22.	“Limited Common Expense”	4
Section 23.	“Lot”	4
Section 24.	“Maintenance Areas”	4
Section 25.	“Member”	4
Section 26.	“Mortgage”	4
Section 27.	“Mortgagee”	4
Section 28.	“Occupant”	4
Section 29.	“Owner”	5
Section 30.	“Pasture Areas”	5
Section 31.	“Person”	5
Section 32.	“Phase”	5
Section 33.	“Plat”	5
Section 34.	“Project”	5
Section 35.	“Property”	5
Section 36.	“Roadways”	5
Section 37.	“Rules and Regulations”	5
Section 38.	“Street Lights”	5
Section 39.	“Supplemental Declaration”	5
Section 40.	“SWIM Buffer”	6
Section 41.	“Trail System”	6

Section 42.	"Turnover Date"	6
Section 43.	"Turnout Area"	6
ARTICLE II.	PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE ASSOCIATION	6
Section 1.	Property Made Subject to this Declaration.	6
Section 2.	Additions to the Property	6
ARTICLE III.	PROPERTY RIGHTS	7
Section 1.	Ownership of Common Areas.	7
Section 2.	Owners' Rights to Use and Enjoy Common Areas.	7
Section 3.	Delegation of Use.	8
Section 4.	Use of Common Area by Licensees.	8
ARTICLE IV.	THE ASSOCIATION	8
Section 1.	Membership.	8
Section 2.	Classes of Voting Members	8
Section 3.	Relinquishment of Control.	9
Section 4.	Availability of Documents	9
Section 5.	Management Contracts.	9
Section 6.	Maintenance	9
Section 7.	Reserve Fund.	10
Section 8.	Liability Limitations.	10
ARTICLE V.	COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS	11
Section 1.	Creation of the Lien and Personal Obligation for Annual, Supplemental Annual, Special, and Special Individual Assessments.	11
Section 2.	Purpose of Annual Assessments	11
Section 3.	Payment of Annual Assessments: Commencement, Due Dates	12
Section 4.	Maximum Annual Assessment	13
Section 5.	Special Assessments	14
Section 6.	Special Individual Assessments	15
Section 7.	Collection Agent	15
Section 8.	Assessments against Lots Owned by Declarant or Related Entities.	15
Section 9.	Assessments for Limited Common Expense	15
Section 10.	Capital Contribution.	15
Section 11.	Special Provisions for Assessments on Lots Owned by Builders.	16
ARTICLE VI.	GENERAL ASSESSMENT PROVISIONS	16
Section 1.	Certificate Regarding Assessments.	16
Section 2.	Effect of Nonpayment of Assessments; Remedies of the Association	16
Section 3.	Subordination of the Lien to Mortgages	16
Section 4.	Uniformity of Assessments.	17
ARTICLE VII.	RESTRICTIONS	17
Section 1.	Residential Restrictions	17
Section 2.	Dwelling Unit Size.	18

Section 3.	HVAC Equipment.	18
Section 4.	Exterior Lighting.	18
Section 5.	Fences and Walls.	18
Section 6.	Mail and Newspaper Boxes; House Numbers.	19
Section 7.	Animals.	19
Section 8.	Horses.	19
Section 9.	Signs.	20
Section 10.	Temporary Structures; Structure Materials.	21
Section 11.	Utilities.	21
Section 12.	Sediment Control.	21
Section 13.	Building Envelope.	21
Section 14.	Waste.	21
Section 15.	Combination or Subdivision of Lots.	22
Section 16.	Restricted Activities in Common Areas and Maintenance Areas.	22
Section 17.	Unsightly or Unkept Conditions.	22
Section 18.	Rules and Regulations.	22
Section 19.	Recreational and Other Equipment.	23
Section 20.	Parking; Storage.	23
Section 21.	Nuisances.	24
Section 22.	Diligent Construction.	24
Section 23.	Public Water System: No Private Individual Wells, Irrigation Restrictions.	24
Section 24.	Governmental Requirements.	25
Section 25.	Occupants Bound.	25
Section 26.	Recreational Vehicles.	25
Section 27.	Conservation Easement Area Restrictions.	25
Section 28.	Trees.	25
ARTICLE VIII.	ARCHITECTURAL AND LANDSCAPING CONTROL	26
Section 1.	General.	26
Section 2.	Composition of Architectural Control Committee.	26
Section 3.	Cheval Design Guidelines.	27
Section 4.	Definition of "Improvements"	28
Section 5.	Enforcement.	28
Section 6.	Variances.	29
Section 7.	Fees Required by the Architectural Control Committee.	29
Section 8.	Builders.	29
Section 9.	No Construction without Payment of Fees and Use of a Builder.	30
Section 10.	Notices and Submittals.	30
Section 11.	Limitation of Liability.	30
Section 12.	Featured Builders.	30
Section 13.	Miscellaneous.	32
ARTICLE IX.	INSURANCE; REPAIR AND RESTORATION; CONDEMNATION ...	32
Section 1.	Board of Directors.	32
Section 2.	Premium Expense.	33
Section 3.	Special Endorsements.	33

Section 4.	General Guidelines.	34
Section 5.	Insurance Proceeds.	34
Section 6.	Insufficient Proceeds.	34
Section 7.	Owner's Personal Property.	34
Section 8.	No Obligation to Insure Owners' Property.	35
Section 9.	Security.	35
Section 10.	Condemnation.	35
ARTICLE X.	EASEMENTS AND OTHER RIGHTS	35
Section 1.	Easements and Cross-Easements on Common Areas.	36
Section 2.	Use of Common Areas.	36
Section 3.	Right-of-Way Over Roadways.	36
Section 4.	Right of the Association and Declarant to Enter Upon the Common Areas and Maintenance Areas.	36
Section 5.	Easement for Encroachments.	37
Section 6.	Easements Regarding Trail System.	37
Section 7.	Cross Easement for Pedestrian and Equestrian Use of Trails.	37
Section 8.	Maintenance Areas.	38
Section 9.	Utility and Drainage Easements.	38
Section 10.	Declarant's Right to Assign Easements, Maintenance of Easement Areas.	39
Section 11.	Easement Reserved for the Association and Declarant.	39
Section 12.	Additional Easements.	39
Section 13.	No Merger of Easements.	40
ARTICLE XI.	RIGHT OF FIRST REFUSAL	40
Section 1.	Applicability.	40
Section 2.	Right of First Refusal.	40
Section 3.	Death of an Owner; Gift.	41
Section 4.	Transfers to Declarant.	41
Section 5.	No Further Documentation Required.	41
ARTICLE XII.	GENERAL PROVISIONS	42
Section 1.	Duty of Maintenance.	42
Section 2.	Duration.	44
Section 3.	Amendment.	44
Section 4.	Release of Property.	45
Section 5.	Enforcement Litigation.	45
Section 6.	Indemnification.	46
Section 7.	Equine Activity Liability	46
Section 8.	Severability of Provisions.	46
Section 9.	Notice.	46
Section 10.	Titles.	46
Section 11.	No Exemption.	46
Section 12.	Changes to Plans for the Project.	46

ARTICLE XIII.	MORTGAGEE PROTECTION	47
Section 1.	Interpretation.	47
Section 2.	Mortgagee's Right to Information.	47
Section 3.	Subordination.....	47

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

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

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made this 11th day of April, 2007, by BAINS FARM, INC., a North Carolina corporation (the "Declarant"). It is also made by PARIS FAMILY LLC, CHEVAL ASSOCIATES LLC, and MORITZ PROPERTIES LLC, (each of whom may be herein after singularly referred to as a "Related Entity", or collectively referred to as the "Related Entities"). All capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this Declaration.

Mortitz Properties, LLC and Paris Family LLC are the owners of that certain real property located in Mecklenburg County, North Carolina, and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property"), which Property is being developed by Declarant as part of a residential community with an equestrian focus known as Cheval.

Declarant and the Related Entities desire to provide for the preservation of the property values, amenities and opportunities in the Project and for the maintenance of the Property and improvements thereon, and to this end desires to subject the Property to the easements, covenants, conditions, restrictions, charges and liens hereinafter set forth and/or described.

Although Declarant contemplates that separate easements, covenants, conditions and restrictions (which may include easements, covenants, conditions and restrictions similar to those herein contained) may be imposed with regard to the various phases or sections of the Project, Declarant and the Related Entities desire to impose pursuant hereto easements, covenants, conditions and restrictions upon all of the Property, with the understanding that, at the option of Declarant, additional restrictions may be imposed with regard to the various phases or sections of the Project.

NOW, THEREFORE, Declarant and the Related Entities hereby subjects the Property to the easements, covenants, conditions, restrictions, charges and liens hereinafter set forth and hereby declares that (subject to certain rights of amendment, as hereinafter described) all of the Property shall be held, sold and conveyed subject to such easements, covenants, conditions, restrictions, charges and liens, all of which are for the purpose of protecting the value, desirability and attractiveness of the Project. Subject to the above-described rights of Declarant, such easements, covenants, conditions, restrictions, charges and liens shall run with the Property and be binding on all parties having or acquiring any right, title or interest in the Property, or any part thereof and shall inure to the benefit of each owner of the Property or any part thereof

ARTICLE I.

DEFINITIONS

Section 1. "Accessory Structure" or "Accessory Structures" shall mean and refer to accessory structures other than the primary Dwelling Unit as are approved in advance in writing by the Architectural Control Committee pursuant to the Guidelines, including, without limitation, to the extent allowed by applicable law, accessory structures incidental to the use of the primary Dwelling Unit such as storage structures, detached garages and equestrian barns.

Section 2. "Additional Property" shall mean and refer to additional real property which may be made subject to the terms of this Declaration in accordance with the provisions of Article II of this Declaration.

Section 3. "Architectural Control Committee" shall mean and refer to the committee appointed by the Board to oversee the development and enforcement of architectural control standards and restrictions with respect to the Project and to perform certain other functions described in the Declaration.

Section 4. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation for the Association.

Section 5. "Association" shall mean and refer to the CHEVAL PROPERTY OWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns.

Section 6. "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.

Section 7. "Bylaws" shall mean and refer to the Bylaws for the Association.

Section 8. "Builder" shall mean an Owner, including a Featured Builder, acquiring one or more undeveloped Lots for the purpose of construction Dwelling Units thereon for sale to others.

Section 9. "Certificate of Occupancy" shall mean and refer to any required certification issued by the appropriate governmental authorities as a prerequisite to occupancy of any structure on the Property.

Section 10. "Common Area" or "Common Areas" shall mean and refer to the Trail System, and the Roadways, including hard surface trails, drainage facilities, monumentation, street signs, and other improvements located therein (prior to their acceptance for maintenance by the Town of Mint Hill or other governmental authority), collectively, and any other property specifically shown and designated on any Plat as "Common Area," "Common Open Area," "Common Open Space," "Open Space," "COS," "Horse Trails," or "Pedestrian Trails." The Common Areas shall be ultimately owned by the Association (except as otherwise provided herein) for the common use, benefit and enjoyment of the Owners. The Declarant reserves the right, but not the obligation, to provide additional Common Areas within the Project.

Section 11. "Conservation Easement" shall mean and refer to that certain Conservation Easement dated December 29, 2005 and filed for record in Book 19828 at Page 325 in the Mecklenburg County Public Registry, and any subsequent Conservation Easements which may affect any portion of the Property. The Conservation Easement contains provisions for impervious surface limitations for the real property described therein. In the event that a Lot lies within the area of the Conservation Easement the number of square feet of impervious surface area that may be constructed on such Lot will be set forth in each Deed from a Builder to the first Lot Owner occupying the Lot for use as a residence.

Section 12. "CPI" shall have the meaning set forth in Article V hereof.

Section 13. "Declarant" shall mean and refer to BAINS FARM, INC., a North Carolina corporation, its successors and assigns, provided that any such successor or assign shall acquire for the purpose of development and/or sale all or substantially all of the remaining undeveloped or unsold portions of the Property and, provided further, that in the instrument of conveyance to any such successor or assign, such successor or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance. Provided further, that upon such designation of such successor Declarant, all rights, duties and obligations of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the Property, there shall be only one person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any time.

Section 14. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions as same may be amended and/or supplemented from time to time as herein provided.

Section 15. "Dwelling Unit" shall mean a room or combination of rooms designed for year-round habitation, containing a bathroom and kitchen facilities, and designed for or used as a residence by a family or household unit.

Section 16. "Equestrian Facility" shall mean that 31.379 acre tract owned by Paris Family, LLC which is more particularly described on Exhibit "B" attached hereto. The Equestrian Facility is not part of the Property but does or will contain private riding trails over which the Declarant, the Association and all Owners will have a non-exclusive right-of-way for equestrian use by virtue of a Cross Easement Agreement entered or to be entered into between Declarant, Paris Family, LLC, and the Related Entities, (said private riding trails may hereinafter be referred to as the "Equestrian Facility Trails").

Section 17. "Entrance Easements" shall mean and refer to the easements reserved by Declarant and granted to the Association in Article X hereof over, across and under certain areas of the Property, for the installation and maintenance of entrance monuments, landscaping and related improvements for the Project, all as more particularly described in Article X.

Section 18. "Featured Builder" shall mean and refer to: (i) any person or entity acquiring a Lot from Declarant or any affiliate thereof or any successor Declarant for the express purpose of constructing a dwelling on the Lot within two (2) years of acquiring the Lot and,

without at any time permitting use of the dwelling as a residence, selling the improved Lot, and (ii) who has been identified from time to time by the Board of Directors or the Architectural Control Committee of the Association as a Featured Builder.

Section 19. "Guidelines" shall mean and refer to "Cheval Design Guidelines" as more particularly described in Article VIII hereof.

Section 20. "Improvement" shall have the same meaning as set forth in Article VIII hereof.

Section 21. "Limited Common Area" shall mean and refer to those areas or those portions of the Property described or referred to in any Declaration applicable to the Property, or recorded Plat of the Property as intended for the use only of Owners or particular Lots to the exclusion of other Owners and other Members. Any Property so designated shall be for the exclusive use of the Owners of the Lots so designated or shown in such Declaration or recorded Plat.

Section 22. "Limited Common Expense" shall mean and refer to the expense of administration, operation, maintenance, repair or Limited Common Areas or any valid charge against the Limited Common Areas as a whole. Such expenses shall be assessed against those Lots having exclusive or special rights in the use or enjoyment of the Limited Common Areas.

Section 23. "Lot" shall mean and refer to any numbered or lettered tract of land (excluding any Common Area) shown on any Plat which is a part of the Property and which shall be restricted for such uses as are consistent with this Declaration and any other restrictions covering the area wherein the tract of land is located. No tract of land shall become a "Lot" as that word is used herein until a Plat of the area in which the same is located is recorded in the Office of the Register of Deeds of Mecklenburg County, North Carolina.

Section 24. "Maintenance Areas" shall have the meaning as set forth in Article X hereof.

Section 25. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 26. "Mortgage" shall mean any mortgage or deed of trust constituting a first lien on a Lot.

Section 27. "Mortgagee" shall mean the owner and holder of a Mortgage at the time such term is being applied. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 28. "Occupant" shall mean and refer to any person occupying all or any portion of a Lot or the Property for any period of time, regardless of whether such person is a tenant of the Owner of such Lot or portion of the Property.

Section 29. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot or other portion of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 30. "Pasture Areas" shall mean those portions of the Property or Lots upon which horses may be "pastured." Any impervious areas shall be excluded from the calculation of the area within Pasture Areas. Pasture Areas will be identified in Rules and Regulations adopted by the Board, from time to time.

Section 31. "Person" shall mean and refer to any natural person, corporation, joint venture, partnership (general or limited), limited liability company, association, trust or other legal entity.

Section 32. "Phase" shall mean and refer to any phase, section or portion of the Property for which a separate Plat or Plats are recorded in the Office of the Register of Deeds of Mecklenburg County, North Carolina.

Section 33. "Plat" shall mean and refer to any plat of the Property or any part of it which is recorded from time to time in the Office of the Register of Deeds of Mecklenburg County, North Carolina, and any and all revisions thereof.

Section 34. "Project" shall mean and refer to the residential development and amenity facility being developed by Declarant on the Property and commonly known as Cheval.

Section 35. "Property" shall mean and refer to that certain real property located in Mecklenburg County, North Carolina, and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference, as well as such additional property as may be made subject to the provisions of this Declaration pursuant to the provisions of Article II hereof.

Section 36. "Roadways" shall mean and refer to the roads, streets, entranceways and cul-de-sacs (if any) in the Project, as shown on the Plats, and any other roads, streets, entranceways and cul-de-sacs on the Property, all to be privately maintained by the Association until accepted for maintenance by the Town of Mint Hill or other governmental authority, as set forth herein.

Section 37. "Rules and Regulations" shall mean and refer to any rules and regulations adopted by the Board from time to time pursuant to the provisions of Article VII, Section 18. The initial Rules and Regulations are attached hereto as Exhibit "C".

Section 38. "Street Lights" shall mean and refer to those certain street lights leased by Declarant (which lease shall be assumed by the Association) and installed upon, along and/or over the rights-of-way of the Roadways, Maintenance Areas and Common Areas,

Section 39. "Supplemental Declaration" shall mean and refer to any Supplemental Declaration of Covenants, Conditions and Restrictions filed in the office of the Register of Deeds of Mecklenburg County, North Carolina, to bring Additional Property within the coverage of this Declaration and the jurisdiction of the Association, as more particularly described in Article II hereof.

Section 40. "SWIM Buffer" shall mean and refer to the Mint Hill SWIM Buffer Ordinance as it may be amended from time to time.

Section 41. "Trail System" shall have the meaning set forth in Article X hereof.

Section 42. "Turnover Date" shall have the meaning set forth in Article IV hereof.

Section 43. "Turnout Area" shall mean a round fenced in and grassed area adjacent to a horse barn or corral.

ARTICLE II.

PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE ASSOCIATION

Section 1. Property Made Subject to this Declaration. The Property is hereby made subject to this Declaration and the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed subject to this Declaration and the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration.

Section 2. Additions to the Property.

(a) Declarant may cause Additional Property to be made subject to the terms and scheme of this Declaration so long as such Additional Property lies within Three (3) miles of the Property described on Exhibit "A" attached hereto. Additional Property shall be added by filing one or more Supplemental Declarations in the Office of the Mecklenburg County Register of Deeds, containing a description of the Additional Property and a statement by the Declarant of its intent to extend the operation and effect of this Declaration to the Additional Property. Notwithstanding the foregoing, the covenants and restrictions established herein as applied to, or imposed upon, the Additional Property may be altered or modified by the filing of one or more Supplemental Declarations as provided in Subparagraph (b) below.

(b) Any Supplemental Declaration may contain complementary additions to the covenants and restrictions contained herein as may be necessary in the judgment of the Declarant to reflect the different character of the Additional Property. In no event, however, shall any Supplemental Declaration revoke, modify or add to the covenants and restrictions contained herein with respect to the Property, nor revoke, modify, change or add to the covenants and restrictions established by previously filed Supplemental Declarations, without meeting the requirements for amendment set forth in this Declaration.

(c) Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that, so long as Declarant owns any part of the Property, or is a Class II Member, the prior written consent of Declarant shall be required for any parties to modify, change and/or amend, in whole or in part, the terms and provisions of this Declaration, any

Supplemental Declaration or to impose new or additional covenants, conditions, restrictions or easements on any part of the Property.

ARTICLE III.

PROPERTY RIGHTS

Section 1. Ownership of Common Areas. Except as otherwise provided herein, Declarant shall convey or cause to be conveyed to the Association the Common Areas to be owned and maintained by the Association; provided, with respect to any part of the Common Areas leased by Declarant (e.g., Street Lights, if any), Declarant shall assign its rights under such lease to the Association, and the Association shall assume all obligations of Declarant under such lease. Declarant reserves the right (but shall not be obligated) to construct within the Common Areas, among other things, (i) the Street Lights, if any (which will be leased from a third party) and other lighting, signage and irrigation facilities, (ii) the Trail System and related structures, (iii) the Roadways (including sidewalks, drainage facilities and other improvements), and (iv) certain additional recreational amenities and facilities, for the use and enjoyment of the Owners who are entitled to the use of such Common Areas as provided in this Declaration. Notwithstanding the recordation of any Plat or any other action by Declarant or the Association, all Common Areas shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public (with the exception of the Roadways, which may eventually be accepted for public dedication and maintenance by the Town of Mint Hill or other governmental authority). Portions of the Trail System may be located within certain Lots, and fee simple title to the land underlying such portions of the Trail System shall be and remain in the applicable Owner over whose Lot such portion of the Trail System is located, subject to the easement rights contained in this Declaration.

Section 2. Owners' Rights to Use and Enjoy Common Areas. Each Owner shall have the non-exclusive easement and right to use and enjoy the Common Areas, and such right shall be appurtenant to and conveyed with title to such Owner's Lot, subject to the following:

(a) the right of the Association and the Board to promulgate and enforce reasonable regulations governing the use of the Common Areas to insure the availability of the right to use the Common Areas to the Owners and the safety of all Owners within the Common Areas;

(b) the right of the Association to suspend the voting rights of an Owner in the Association and the right of the Association to suspend the right to use certain or all of the Common Areas by an Owner for any period during which any assessment or charge against said Owner's Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) the right of the Declarant or the Association to grant or reserve utility, drainage and other easements across the Common Areas;

(d) any limitation on use of certain facilities on the Common Area established by Declarant in a Supplementary Declaration, as contemplated in Article II, Section 2, above;

(e) any and all other applicable provisions of this Declaration, including, without limitation, the provisions of Article III, Section 4 below.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his or her right of enjoyment to the Common Areas and facilities located thereon to the members of his or her family, his or her guests, invitees, or his or her tenants.

Section 4. Use of Common Area by Licensees. The Association shall, only with the express written consent of Declarant, so long as Declarant is a member, have the right, from time to time, to allow individuals or entities not owning a Lot or any other part of the Property (each, a "Licensee"; collectively, "Licensees") to use all or a certain portion of the Common Areas upon terms and conditions acceptable to the Association and set forth in a written agreement between the Association and each Licensee (each, a "License Agreement"). Each License Agreement, among other things, may include the following provisions:

(a) Upon execution of a License Agreement, each Licensee may be required to pay to the Association an amount determined by the Association in its sole discretion ("the License Fee") as consideration (in addition to the "User Fee" defined in Section 4(b) below) for the Association's agreement to enter into the License Agreement;

(b) In addition to the License Fee, each Licensee shall pay to the Association an amount to be collected no less often than annually (a "User Fee") in such amount as is determined by the Association from time to time as consideration for the ongoing use of the Amenity Areas (or such portion thereof with respect to which a license has been granted);

(c) The License Agreement may provide for termination at will by the Association or the Licensee, and may provide that, upon any such termination, any License Fee paid by such Licensee, as well as a pro-rated portion of the User Fee, if applicable, shall be refunded to the Licensee, less any costs owed by such Licensee to the Association; and

(d) The License Agreement may provide for termination for cause by the Association, and may provide for forfeiture of the License Fee and any prepaid User Fee in the event of any such termination.

ARTICLE IV.

THE ASSOCIATION

Section 1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and shall be governed by the Bylaws. In addition, so long as Declarant owns any part of the Property or has any voting rights, Declarant shall be a Member of the Association.

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

(a) Class I. The Class I Association Members shall be all Association Members with the exception of Declarant. Class I Association Members shall be entitled to one (1) vote for each Lot owned by such Association Member. When more than one Person owns an interest (other than a leasehold or security interest) in any Lot, all such Persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(b) Class II. The Class II Association Member shall be Declarant. The Class II Association Member shall be entitled to ten (10) votes for each Class I vote.

Section 3. Relinquishment of Control. Notwithstanding anything contained herein to the contrary, the Class II Association Membership shall cease upon the earlier to occur of (a) the date Declarant shall elect, in its sole discretion, that the Class II membership cease; or (b) December 31, 2020. The earlier to occur of (a) or (b) above shall herein be referred to as the "Turnover Date." After the Turnover Date and for so long as Declarant owns any part of the Property, Declarant shall be a Class I Association Member.

Section 4. Availability of Documents. The Association shall maintain current copies of the Declaration, the Bylaws and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by all Owners, Mortgagees and insurers and guarantors of Mortgages that are secured by Lots, provided the Association shall have no responsibility to distribute such documents. All such documents shall be available upon reasonable notice and during normal business hours, provided the Association shall have the right to charge the requesting party reasonable costs incurred by the Association in complying with such request, including, without limitation, copy charges. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

Section 5. Management Contracts. The Association is authorized and empowered to engage the services of any person, firm or corporation to act as managing agent of the Association at a compensation level to be established by the Board and to perform all of the powers and duties of the Association. Provided, however, that the term of any such agreement with a managing agent shall not exceed one (1) year and shall only be renewed by agreement of the parties for successive one (1) year terms. Any such contract shall be terminable by the Association with or without cause upon ninety (90) days prior written notice to the manager without payment of a termination fee.

Section 6. Maintenance. Prior to their acceptance for public maintenance, the Roadways shall be maintained by the Association, provided that the Declarant, in its sole discretion, has the right to reimburse the Association for maintenance costs until the Roadways are accepted for maintenance by the Town of Mint Hill or other governmental authority. Such maintenance shall include repair and reconstruction, when necessary. Maintenance of the Roadways shall conform to the standard of maintenance (if one is ascertainable) which would be required by the Town of Mint Hill or other governmental authority before it would accept such Roadways for maintenance.

The Common Areas and the Maintenance Areas, together with all utilities, easements and amenities located therein and not otherwise maintained by public entities or utilities or any other party as provided herein, shall be maintained by the Association as more particularly described below:

(a) Maintenance of the entryways to the Project shall include maintenance, repair and reconstruction, when necessary, of the entrance monuments, signage, irrigation, planters and lighting located thereon and providing and paying for landscaping, utility charges for irrigation and lighting of the entrance monuments and signage located thereon.

(b) To the extent not maintained by the Town of Mint Hill or other governmental authority, as the case may be, the Association shall maintain or cause to be maintained the swales and medians and associated landscaping and related improvements along and within the Roadways.

(c) The Common Areas and Maintenance Areas shall be clean and free from debris and maintained in a safe and orderly condition, together with the landscaping thereon (if any), in accordance with the highest standards for first-class residential developments located in the Charlotte, North Carolina, metropolitan area, including any removal and replacement of any landscaping, utilities, or improvements located thereon. Provided, however, that the maintenance of any Common Area lying within the Conservation Easement and/or the SWIM Buffer, shall be conducted in accordance with the provisions of the Conservation Easement and/or the SWIM Buffer requirements.

(d) Maintenance of any improvement within the Common Area (including, without limitation, any fencing or trails located thereon, and including trails located on individual Lots) shall include, but not be limited to, any and all interior and exterior maintenance (including, where necessary, repair and/or reconstruction), landscaping and payment of all utility charges related to any such improvement.

(e) Except for portions of Common Areas located within a Lot (e.g., the Trail System), if any, the Association shall not be responsible for the maintenance of any Lot or any portion of any Lot or the improvements within the boundaries thereof. The Owners of such Lots shall be solely responsible for same.

(f) Maintenance, repair and painting of all silos located on any portion of the Property, Common Area or within the right-of-way of any Roadways.

Section 7. Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of all or a portion of the Common Areas or Maintenance Areas and in order to fund unanticipated expenses of the Association or to acquire equipment or services deemed necessary or desirable by the Board of Directors. Such reserve fund shall be collected and maintained out of the Annual Assessments, as hereinafter defined.

Section 8. Liability Limitations. Neither Declarant, nor any Association Member, nor the Board, nor any officers, directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another

Association Member, whether or not such other Association Member was acting on behalf of the Association or otherwise. Neither Declarant, nor the Association, nor their directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Association or any other person, firm or association making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof. The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

ARTICLE V.

COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Annual, Supplemental Annual, Special, and Special Individual Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance document, is deemed to covenant and agrees to pay to the Association Annual Assessments, Supplemental Annual Assessments, Special Assessments and Special Individual Assessments, (collectively, the "Assessments"), as hereinafter defined, established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner, at the time when the assessment fell due, of the Lot against which such assessment or charge is made. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them, provided such assessments or charges, together with interest, costs, and reasonable attorneys' fees, shall, as set forth above, be a continuing lien upon the Lot against which such assessments or charges are made.

Section 2. Purpose of Annual Assessments. The assessments to be levied annually by the Association ("Annual Assessments") shall be used as follows:

(a) to repair, operate, maintain, reconstruct (when necessary) and keep clean and free from debris the Common Areas and the Maintenance Areas and any improvements located thereon, and to maintain the landscaping in accordance with the highest standards for first-class residential developments located in the Charlotte, North Carolina, metropolitan area, including any necessary removal or replacement of landscaping. Provided, however, that the maintenance of any Common Area lying within the Conservation Easement and/or the SWIM Buffer, shall be conducted in accordance with the provisions of the Conservation Easement and/or the SWIM Buffer requirements.

(b) to maintain and repair the Roadways to the standards of the maintenance (if one is ascertainable) which would be required by the Town of Mint Hill or other governmental authority before it would accept such Roadways for maintenance;

(c) to maintain, operate, repair and reconstruct, when necessary, the entryways to the Project, including the entrance monuments, signage, irrigation, planters, landscaping and lighting located thereon;

(d) to maintain and repair the swales and medians and associated street lights, landscaping and related improvements along and within the Roadways to the extent not maintained by the Town of Mint Hill or other governmental authority, as the case may;

(e) to pay all costs associated with the lease and operation of any street lights, including, but not limited to, monthly lease payments and utility costs;

(f) to pay all ad valorem taxes levied against the Common Areas and any other property owned by the Association;

(g) to carry out all other purposes and duties of the Association, the Board of Directors and the Architectural Control Committee as stated in the Articles, the Bylaws and in this Declaration;

(h) to maintain contingency reserves for the purposes set forth in Article IV hereof in amounts as determined by the Board of Directors;

(i) to pay all costs incurred with respect to any resource manager or other consultant engaged to assist with the preservation of flora and fauna within the Property as may be required by the provisions of any Conservation Easement.

The expenses of the Association for the foregoing are sometimes referred to herein as "common expenses."

Section 3. Payment of Annual Assessments: Commencement, Due Dates. Each Owner of a Lot shall pay to the Association Annual Assessments as hereinafter set forth.

For purposes of Annual Assessments, there shall be two types of Lots. Type A Lots are all Lots two and one-half (2½) acres in size or larger and Type B Lots are all Lots that are less than two and one-half (2½) acres in size.

Annual Assessments provided for herein shall commence as to all Lots shown on a Plat of any portion of the Property on the first day of the month next following the recordation of said Plat. The initial Annual Assessment for Type A Lots for the calendar year beginning January 1, 2007, or a portion thereof, shall be an amount per Lot determined by Declarant. The initial Annual Assessment for Type B Lots for the calendar year beginning January 1, 2007, or a portion thereof, shall be an amount per Lot determined by Declarant. The Annual Assessment amount for each and every year thereafter shall be in an amount as set by the Board of Directors, in accordance with the terms of this Article V, provided, however, that such Annual Assessments shall be in the same proportions as are set forth above for the two types of Lots. Annual

Assessments shall be due and payable in advance in equal installments on a quarterly basis on January 1, April 1, July 1 and October 1 of each calendar year. The Board of Directors shall fix the amount of the Annual Assessment as to each Lot for any calendar year at least thirty (30) days prior to January 1 of such calendar year, and the Association shall send written notice of the amount of the Annual Assessment, as well as the amount of the payment due, to each Owner on or before January 5 of such calendar year. To the extent required by North Carolina General Statutes §47F-3-103(c) or other applicable law, such notice shall include notice of a meeting of the Members to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. If such a meeting is required by N.C. General Statutes §47F-3-103(c), or other applicable law, the Board of Directors shall set a date for a meeting of the Members to consider ratification of the budget to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. If such meeting is required as set forth above, there shall be no requirement that a quorum be present at the meeting. If the proposed budget to be voted on at any such meeting is within the maximum increase limits set forth in Section 4(a) below, the budget is ratified unless at such meeting Members exercising all of the votes in the Association reject the budget. Additionally, any proposed budget for any calendar year prior to 2007 is ratified unless at such meeting Members exercising all of the votes in the Association reject the budget. For calendar year 2007 and subsequent years, if the proposed budget to be voted on at any such meeting exceeds the maximum increase limits set forth in Section 4(a), the budget is ratified unless at such meeting Members exercising a majority vote in the Association reject the budget.

The failure of the Association to send, or of a Member to receive, such notice shall not relieve any Member of the obligation to pay Annual Assessments. Notwithstanding the foregoing, for calendar years beginning prior to the Turnover Date, in lieu of payment of all or a portion of Annual Assessments against Lots owned by Declarant pursuant to Section 8 of this Article IV, Declarant may pay for each such calendar year that portion of the annual expenses of the Association (excluding any reserves) which exceeds the total amount of the Annual Assessments paid by the Owners other than Declarant, and the total amount of Annual Assessments (if any) paid by Declarant.

Section 4. Maximum Annual Assessment.

(a) For calendar year 2008 and thereafter, the Board of Directors, by a vote in accordance with the Bylaws, without a vote of the Members (unless required under N.C. General Statute 47F-3-103(c) or other applicable law, in which case the procedures set forth in Section 3 above shall apply), may increase the Annual Assessment applicable to each Lot by a maximum amount equal to the previous year's Annual Assessment times the greater of (i) ten percent (10%) or (ii) the annual percentage increase in the Consumer Price Index, All Urban Consumers, United States, All Items (1982-84 = 100) (hereinafter "CPI") issued by the U.S. Bureau of Labor Statistics for the most recent 12-month period for which the CPI is available. If the CPI is discontinued, then the index most similar to the CPI (published by the United States Government indicating changes in the cost of living) shall be used. If the Annual Assessments are not increased by the maximum amount permitted under the terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the Annual Assessments may be increased by that amount in a future year, in addition to the maximum increase permitted under the terms of the preceding sentence

for such future year, by a vote of the Board of Directors, without a vote of the Members, unless required under NC. General Statutes §47F 3-103 (c) or other applicable law, in which case the procedures set forth in Section 3 above shall apply.

(b) For calendar year 2008 and thereafter, the maximum annual assessment applicable to each Lot may be increased above the maximum amount set forth in subparagraph (a) of this Section 4 by a vote of a majority of the votes appurtenant to the Lots which are then subject to this Declaration, plus the written consent of Declarant (so long as Declarant owns any part of the Property), subject to the procedures set forth in Section 3 above if applicable.

(c) The Board of Directors may fix the Annual Assessment applicable to each Lot at an amount not in excess of the maximum set forth in Subparagraph (a) of this Section 4 (the "Maximum Annual Assessment"). If the Board of Directors shall levy less than the Maximum Annual Assessment for any calendar year and thereafter, during such calendar year, determine that the important and essential functions of the Association cannot be funded by such lesser assessment, the Board may, by vote in accordance with the Bylaws, levy a supplemental Annual Assessment ("Supplemental Annual Assessment"), subject to the procedures set forth in Section 3 above, if applicable. In no event shall the sum of the Annual and Supplemental Annual Assessments for any year exceed the applicable Maximum Annual Assessment for such year other than as set forth herein.

(d) With respect to any Lot conveyed or caused to be conveyed by Declarant, the purchaser of such Lot shall pay to the Association at closing the amount of the Annual Assessment for the installment period in which the closing occurs on such Lot, prorated based upon the number of days remaining in such installment period. With respect to any Lot conveyed by any Owner other than Declarant, the amount of the Annual Assessment applicable to such Lot for the installment period in which such closing occurs shall be prorated between the buyer and seller thereof as of the date of closing of such conveyance.

(e) Declarant shall have the authority to reduce the Annual Assessment (i) on any Lot on which no structure has been completed (*i.e.*, no Certificate of Occupancy has been issued), or (ii) on any Lot owned by a Builder (as defined below) until such time as the Builder sells or otherwise transfers ownership of its Lot.

Section 5. Special Assessments. In addition to the Annual Assessment authorized above, the Association may levy, in any assessment year, a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) the construction of any Common Area and/or Maintenance Area improvements which are not originally constructed by Declarant or (ii) the reconstruction, repair or replacement of the Common Areas and/or Maintenance Areas, including any improvements located thereon. Provided, however, (a) Declarant shall not be obligated to pay any Special Assessments on Lots owned by Declarant except with Declarant's prior written approval, and (b) any Special Assessment must be approved by Declarant (so long as Declarant owns any part of the Property) and by a vote of a majority of the votes appurtenant to the Lots which are then subject to this Declaration.

Section 6. Special Individual Assessments. In addition to the Annual Assessments and Special Assessments authorized above, the Board of Directors shall have the power to levy a special assessment applicable to any particular Owner ("Special Individual Assessment") (i) for the purpose of paying for the cost of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas and/or Maintenance Areas, whether occasioned by any act or omission of such Owner(s), members of such Owner's family or such Owner's agents, guests, employees, tenants or invitees and not the result of ordinary wear and tear; or (ii) for payment of fines, penalties or other charges imposed against any particular Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws or any rules or regulations promulgated by the Association or the Declarant pursuant to this Declaration or the Bylaws. Provided, however, Declarant shall not be obligated to pay any Special Individual Assessment except with Declarant's prior written approval. The due date of any Special Individual Assessment levied pursuant to this Section 6 shall be fixed in the Board of Directors resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Owner(s) at least thirty (30) days prior to the date such Special Individual Assessment is due.

Section 7. Collection Agent. At the option of the Board of Directors, any person or entity designated by the Board of Directors may act as collection agent for any and all assessments imposed by the Association and/or the Board against the Owners.

Section 8. Assessments against Lots Owned by Declarant or Related Entities. Anything to the contrary set forth in this Declaration notwithstanding, Assessments on all Lots owned by Declarant or any of the Related Entities shall be in an amount equal to ten percent (10%) of applicable Assessments on said Lots. Furthermore, Declarant shall be entitled to credit against any Assessments on Lots owned by Declarant any and all amounts which Declarant has paid directly for common expenses, or has paid, subsidized or contributed to the Association for the Association's payment of common expenses.

Section 9. Assessments for Limited Common Expense. In addition to the foregoing assessments described in this Article V, the Association may levy, in any assessment year, an assessment for Limited Common Expense against Lots having exclusive or special rights in the use or enjoyment of any Limited Common Areas for the expense of administration, operation, maintenance, repair or any other expense associated with such Limited Common Areas.

Section 10. Capital Contribution. Notwithstanding any provision contained herein or in any other document or instrument to the contrary, every Owner (other than a successor Declarant or a Builder) who purchases a Lot from a Builder, Declarant or any of the Related Entities shall pay to the Association at the time of the closing of such purchase a non-refundable Capital Contribution Fee in an amount equal to fifty percent (50%) of the then applicable annual assessment for such Lot which amount shall be held by the Association in reserve for maintenance, repair, construction and replacement of capital assets and improvements within the Common Area and to the Property. It is expressly provided herein that such capital contributions shall not be held in reserve for the benefit of the Owner paying such amount at closing, shall not be required to be held in an interest bearing account, and may be commingled by the Association with its other funds.

Upon every subsequent conveyance of a Lot, the purchasing Owner shall pay to the Association at the time of the transfer of title to such Owner a non-refundable Capital Contribution Fee in an amount equal to twenty-five percent (25%) of the then current Annual Assessment applicable to such Lot.

Section 11. Special Provisions for Assessments on Lots Owned by Builders. The Annual Assessment for any Lot owned by a Builder shall not commence until January 1 of the year next following the calendar year in which such Lot was acquired by such Builder and the Annual Assessment for Lots owned by Builders shall be thirty percent (30%) of the applicable Annual Assessment for said Lot, but such discounted Assessment shall only be effective for so long as the Lot is owned by the Builder.

ARTICLE VI.

GENERAL ASSESSMENT PROVISIONS

Section 1. Certificate Regarding Assessments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 2. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment (or installment thereof) not paid by its due date as set forth herein shall bear interest from such due date at the rate of eighteen percent (18%) per annum or the highest rate then permitted by law, whichever is less. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner (or foreclose the lien against the applicable portion of the Property), and interest, late payment charges, court or collection costs, and reasonable attorney's fees related to such action or foreclosure shall be added to the amount of such assessment and the lien securing such assessment. Additionally, the Association may accelerate all quarterly installments of the Annual Assessment for the calendar year in which the default occurs. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of his or her property or the Common Areas or otherwise.

Section 3. Subordination of the Lien to Mortgages. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any first Mortgage on a Lot. Sale or transfer of any Lot shall not affect the assessment. The sale or transfer of any Lot pursuant to a mortgage foreclosure under any first Mortgage on a Lot, or any proceeding in lieu thereof, however, shall extinguish the lien (but not the personal obligation of the mortgagor or any prior Owner) of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the Board of Directors may in its sole discretion determine such unpaid assessments to be an Annual, Special or Special Individual Assessment (as the case may be), as applicable, collectable pro rata from all Owners, including the foreclosure sale purchaser. Such pro rata portions are payable by all Owners notwithstanding the fact that such pro rata

portions may cause the Annual Assessment to be in excess of the Maximum Annual Assessment permitted hereunder. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any first Mortgage on a Lot.

Section 4. Uniformity of Assessments. Except as otherwise specifically set forth herein, all Annual Assessments and Special Assessments shall be uniform as to all Lots. The following provisions of this Declaration provide for certain Lots to be assessed at other than a uniform rate with other Lots:

(a) Article V, Section 4(e) granting Declarant the authority to reduce the Annual Assessment on any Lot upon which no structure has been completed or on any Lot owned by a Builder until transfer thereof

(b) Article V, Section 8, providing for reduced assessments against Lots owned by Declarant.

(c) Article V, Section 9, providing for Assessments for Limited Common Expense.

(d) Article V, Section 11, providing for reduced assessments against Lots owned by Builders.

ARTICLE VII.

RESTRICTIONS

Section 1. Residential Restrictions. Each Lot shall be used exclusively for single-family, non-transient residential purposes; provided, however, Declarant shall have the right to use the Lots designated from time to time by Declarant for the purpose of construction and operation of construction offices and sales/marketing offices (and for related uses) for the Project. No trade, business or business activity of any kind shall be conducted upon a Lot or any part thereof except by Declarant as described hereinabove or except with the written approval of the Board. Provided, however, the Board may permit a business or business activity to be conducted on a Lot so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of this Declaration, does not create a disturbance and does not unduly increase traffic flow or parking congestion on the Property or in the Project. The Board may issue rules regarding permitted business activities. Leasing of a Dwelling Unit shall not be considered businesses or business activities under this Declaration.

Except those to be utilized by Declarant as described hereinabove, no structure shall be erected, placed, altered, used or permitted to remain on any Lot other than one primary attached or detached single-family Dwelling Unit, and such other Secondary Dwelling Units and Accessory Structures as are approved in advance in writing by the Architectural Control Committee pursuant to the Guidelines. Each Lot Owner shall notify the Architectural Control Committee prior to the commencement of construction upon their respective Lots. No Lot and no Improvements may be used for hotel or other transient residential purposes. Each lease relating

to any Lot or any Improvements thereon (or any part of either thereof) must be for a term of at least six (6) months, must be in writing, and must provide that the tenant is obligated to observe and perform all of the terms and provisions hereof applicable to such Lot and/or Improvements. Copies of all lease agreements must be delivered to the Association promptly after the execution thereof.

Section 2. Dwelling Unit Size. The square footage requirements set forth below are for enclosed heated floor area, are measured from the ground level up (said ground level being the first level of any primary Dwelling Unit as viewed from the Roadway fronting same) and are exclusive of the areas in heated or unheated basements, vaulted ceiling areas and attics, unheated porches of any type, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios.

Any Dwelling Unit erected upon any Lot located within the Property described on Exhibit A attached hereto shall contain not less than the following heated floor areas:

	<u>Minimum Total Heated Area</u>	<u>Minimum Ground Floor Heated Area</u>
1 story	3,000	3,000
1 ½ story	3,400	1,800
2 story	3,600	1,800

The minimum requirements for enclosed heated floor area for Dwelling Units located on Additional Property submitted to the terms of the Declaration by Supplemental Declaration may vary from those set forth above, in which event such minimum Dwelling Unit sizes will be set forth in such Supplement Declaration.

Notwithstanding the foregoing requirements, the Architectural Control Committee shall have the right (but not the obligation), because of restrictive topography, lot shape, dimensions or unusual site related conditions or other reasons, to allow variances from such minimum square footage requirements by granting a specific written variance.

Section 3. HVAC Equipment. No air conditioning or heating equipment or apparatus shall be installed on the ground in front of, or attached to any front wall of, any Dwelling Unit or Accessory Dwelling Unit on a Lot. Additionally, air conditioning and heating equipment and apparatus shall be screened from view from Roadways by landscape improvements, as more particularly provided in the Guidelines.

Section 4. Exterior Lighting. Exterior lighting on Lots shall be subject to the applicable requirements and limitations in the Guidelines, shall be directed toward the ground and away from adjacent Lots or Roadways and shall be subject to the approval of the Architectural Control Committee.

Section 5. Fences and Walls. In addition to the restrictions contained elsewhere in this Declaration, only fences or walls (including, without limitation, densely planted hedges,

rows or similar landscape barriers) approved in advance by Declarant and/or the Architectural Control Committee, in their sole and absolute discretion, shall be used, installed and/or constructed along or near the front, side and/or rear boundary lines of each Lot within the Project. All fences and walls shall be maintained in a structurally sound and attractive manner. No fence or wall shall be erected on any Lot until the Architectural Control Committee has given its prior written approval of the color, size, design, materials and location for such fence or wall. The Architectural Control Committee may, in its sole and absolute discretion, refuse to allow any fences or walls on a Lot, even if fences or walls are allowed on other Lots. No fence, wall or entrance gate shall be located so as to interfere in any way with the free and unfettered use of the Trail System.

Section 6. Mail and Newspaper Boxes; House Numbers. Each Lot Owner, at such Lot Owner's expense, shall purchase a mailbox/newspaper box of the standard type and from the vendor specified by Declarant, and shall install and maintain, at such Lot Owner's expense, such standard mailbox/newspaper box for such Owner's use on such Owner's Lot. No other mailbox or newspaper box shall be erected or maintained on any Lot. The location of the mailbox/newspaper box on a Lot must be approved in writing by the Architectural Control Committee. House numbers may be displayed on the Dwelling Unit and/or mailbox only as approved by the Architectural Control Committee. Declarant shall not be responsible for the installation or maintenance of any mailbox or newspaper box

Section 7. Animals. With the exception of horses, no animals, livestock or poultry, shall be raised, bred or kept on any portion of the Property, except that dogs, cats or other household pets may be kept, but not for any commercial purposes, provided they do not create a nuisance (in the judgment of the Board) such as, but without limitation, by noise, odor, damage or destruction of property or refuse. Any excrement deposited by an animal on any portion of the Property shall be promptly removed and appropriately disposed of by the owner of such animal. The number of household pets kept or maintained outside the Dwelling Unit on a Lot shall not exceed three (3) in number, except for newborn offspring of such household pets which are all under nine (9) months in age. Animal control authorities shall be permitted to enter the Project and the Property to patrol and remove pets and wild animals. All pets shall be registered, licensed and inoculated as required by law. No fenced dog enclosure or other structure for pets may be constructed or maintained on any Lot unless the same has been approved in writing by the Architectural Control Committee.

Section 8. Horses. Horses may only be kept, raised or boarded on a Lot that is larger than Two and one-half (2.5) acres in size, and only in accordance with the following restrictions and limitations, and any other Rules and Regulations adopted by the Board, from time to time, in its sole discretion:

(a) One (1) horse may be kept, maintained, or cared for on any Lot larger than Two and one-half (2.5) acres, but only if said horse has a minimum of Two (2) acres of pasture grazing area, as determined by the Board, in its sole discretion.

(b) Two (2) horses may be kept, maintained, or cared on any Lot larger than Two and one-half (2.5) acres only if said horses have a minimum of 3 acres of pasture grazing area, as determined by the Board, in its sole discretion.

(c) Under no circumstances shall an Owner maintain or keep more than two (2) horses on any Lot. Provided, however, that in the event such Lot is larger than five (5) acres, then such Owner may petition the Board for permission to be allowed to keep, maintain, or care for additional horses, and the Board may grant or withhold its consent in its sole discretion.

(d) No horse shall be kept, maintained, or cared for on any Lot unless said horse is owned by the Owner of the Lot.

(e) No horse may be kept for commercial breeding purposes.

(f) No horse shall be permanently "pastured" and all horses shall be provided with adequate shelter from the elements, which shall include a stable constructed, in all aspects, in compliance with the architectural requirements of this Declaration and any rules and regulations adopted by the Board. Furthermore, no horse may be "pastured" except in those areas of the Property designated as Pasture Areas by the Board in Rules and Regulations adopted by the Board from time to time.

(g) The location of any "turn out" areas shall be designated on the site plan submitted in connection with obtaining architectural approvals and shall be submitted by an Owner in connection with obtaining architectural approvals and shall be located in a manner to prevent areas which may become extensively grazed from being visible from the roadways or adjacent Lots. Horses shall not be "turned out" or pastured except in designated "turn out" areas in a front yard without the express consent of the Board.

(h) No horse shall be brought onto or allowed to remain on the Property unless such horse has been tested within the preceding one hundred eighty (180) days for equine infectious anemia ("EIA") by a North Carolina licensed veterinarian by the administration of a "Coggins Test" or such other comparable test as is then being utilized to detect the presence or absence of EIA in livestock. A copy of the test results must be furnished to the Board as evidence of a "negative result" of such testing. The Board shall maintain all such testing records and results which shall be available for inspection by any Owner in the event the test results for any horse are "positive" for "EIA," then such horse shall immediately be removed from the Property by the Owner.

(i) The Owner of each Lot shall be responsible for controlling odor, insects, animal waste, and run off as it relates to the keeping of a horse or horses on said Lot; and the Owner is responsible for providing adequate pasture area in accordance with other provisions of this Declaration. Should the Owner fail to comply with these strict standards, the Declarant or Association shall have the right to enter onto said Lot and bring it up to suitable standards at the Owner's expense. In the event that an Owner has more than three (3) complaints lodged against him or her at different times during a one (1) year period, the Association may, in accordance with adopted Rules and Regulations deprive said Owner of his or her right to keep horses upon said Lot.

Section 9. Signs. No sign of any kind shall be displayed on any Lot except for sign(s) approved in advance by the Architectural Control Committee. Notwithstanding the foregoing, Declarant shall be entitled to erect and maintain signs and billboards advertising the Property, the

Project or portions of either, or for any other purpose, on any portion of the Property owned by Declarant or in the Common Areas or Maintenance Areas.

Section 10. Temporary Structures; Structure Materials. No residence or building of a temporary nature, including a construction trailer, shall be erected or allowed to remain on any Lot, and no metal, fiberglass, plastic or canvas tent, barn, carport, garage, utility building, storage building or other metal, fiberglass, plastic or canvas structure shall be erected on any Lot or attached to any residence unless approved by the Architectural Control Committee. Provided, however, nothing herein shall prohibit Declarant or a Builder (subject to the prior written approval of Declarant) from erecting or moving temporary buildings onto Lots owned by Declarant or such Builder to be used for storage, or for construction or sales offices.

Section 11. Utilities. All utilities and utility connections shall be located underground, including electrical, telephone and cable television lines. Transformers, electric, gas or other meters of any type, or other apparatus shall be located at the rear of the buildings constructed on Lots or, if approved by the Architectural Control Committee in writing, located elsewhere on the Lot provided they are adequately screened as required by the Architectural Control Committee in accordance with the provisions of this Declaration.

Section 12. Sediment Control. Sufficient sediment control measures, including, but not limited to, installation and maintenance of silt fences, straw bale fences, storm water inlet protection and temporary seeding, to the extent deemed reasonably necessary by Declarant or the Architectural Control Committee, shall be taken by the Owner or Owner's builder to ensure that all sediment resulting from any land disturbance or construction operation is retained on the Lot in question. All sediment control measures must be maintained until such Lot has been permanently stabilized with respect to soil erosion.

Section 13. Building Envelope. Unless approved in advance by the Architectural Control Committee, no construction activities of any kind (including, without limitation, the clearing of Lots or cutting of trees), building or other Improvement on any Lot (including any stoops or porches, patios, decks, terraces, etc.) shall be erected or permitted to remain outside of the "Building Envelope" for that particular Lot if one has been established by the Architectural Control Committee (as to each Lot, the "Building Envelope"). All accessory structures inside and outside of the Building Envelope are subject to prior written approval by the Architectural Control Committee. The Building Envelope approved for any Lot will be available from the Architectural Control Committee on a site illustration diagram. The Architectural Control Committee shall have the right in its sole discretion to make exceptions to any Building Envelope to recognize any special topography, vegetation, Lot shape or dimension, or other site-related conditions. In the event any zoning or subdivision ordinance, floodway regulation or other ordinance, law or regulation applicable to a Lot shall prescribe greater setbacks, then all buildings erected during the pendency of such requirements shall conform thereto.

Section 14. Waste. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. During construction of Improvements on a Lot, all rubbish and debris shall be stored and disposed of in accordance with the rules and established by the Architectural Control Committee.

Section 15. Combination or Subdivision of Lots. Should the Owner of a Lot own an adjacent Lot(s) and desire that two (2) or more such Lots be considered as one Lot, then such Lots shall (except as provided herein) be considered as one Lot for the purposes of this Article VII upon the recordation in the Office of the Register of Deeds of Mecklenburg County, North Carolina, of an instrument by such Owner expressing such intent (such instrument to refer specifically to this section in this Declaration and to identify the Lots to be considered as one Lot for purposes of this Article VII, and a copy of such recorded instrument shall be promptly delivered by such Owner to the Architectural Control Committee); and in each such case, Building Envelopes (if applicable), setback lines, and easements reserved in this Declaration shall be adjusted accordingly by the Architectural Control Committee. The Owner of any Lot which combines with all or a portion of a contiguous Lot shall be solely responsible for any costs which may result from such combination, including the costs of relocating any existing easements. With respect to combined Lots, Declarant reserves the right to designate said combined Lots as one (1) Lot or multiple Lots, in Declarant's sole and absolute discretion, for purposes of payment of assessments. No Lot shall be subdivided by sale, lease or otherwise without the prior written consent of Declarant, or the Board if Declarant no longer owns any Lot. Provided, however, Declarant reserves the right to change the size, boundaries or dimensions of any Lot owned by Declarant for any reason.

Section 16. Restricted Activities in Common Areas and Maintenance Areas. No cutting of vegetation, dumping, digging, filling, destruction or other waste shall be committed on the Common Areas or the Maintenance Areas except as approved by the Association and Declarant. There shall be no obstruction of the Common Areas or the Maintenance Areas, nor shall anything be kept or stored in the Common Areas or the Maintenance Areas, nor shall anything be altered, or constructed or planted in, or removed from, the Common Areas or the Maintenance Areas, without the prior written consent of the Declarant and the Association. Each Owner shall be liable to the Association and/or Declarant for any damage to any Common Area and/or the Maintenance Area caused by the negligence or willful misconduct of the Owner or his family, tenants, guests, agents, employees, or invitees. Provided, however, the provisions in this paragraph shall not apply to Declarant in connection with Declarant's construction activities on the Property.

Section 17. Unsightly or Unkept Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkept conditions, shall not be pursued or undertaken on any Lot, other than in enclosed garages.

Section 18. Rules and Regulations. All Owners of any Lot shall abide by all Rules and Regulations adopted by the Board from time to time. The Board shall have the power to enforce compliance with said Rules and Regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said Rules and Regulations shall be liable to the Association and/or Declarant for all damages and costs, including attorneys' fees.

Section 19. Recreational and Other Equipment.

(a) No recreational equipment (including, but not limited to, basketball backboards and hoops, trampolines, swing sets, tree houses, children's climbing or play apparatus and other equipment associated with either adult or juvenile leisure or recreation) shall be attached to the exterior of any Dwelling Unit or otherwise placed or kept on any Lot, except in accordance with the requirements as set forth in the Guidelines and with the prior written approval of the Architectural Control Committee.

(b) No such recreational equipment shall be located in such a manner as to constitute a nuisance or unsightly condition to adjoining Owners.

(c) No such recreational equipment shall be located within one hundred feet (100') of any area designated as "Open Space", "Common Open Space" or "COS" (or similar designation) on a Plat.

(d) Children's play toys and other moveable equipment of any type (such as lawn mowers, garden tools, etc.) shall not remain repeatedly overnight within any front yard of any Lot, or within the side yards of any Lot located on a Roadway corner, in such number or for such a long period of time as to create a continuing, unsightly condition.

Section 20. Parking; Storage.

(a) No vehicles, trucks, vans, cars, trailers, construction equipment, etc. may be parked overnight on any Roadway within the Property.

(b) Commercial-use vehicles, horse trailers, and trucks not involved with construction activity on the Property and having a carrying capacity and/or size designation equal to or greater than three-fourths (3/4th) ton shall not be permitted to park overnight on the Roadways, driveways or otherwise within the Property, unless stored in an enclosed garage or not visible from any Roadway. No vehicle of any size which transports inflammatory or explosive cargo may be kept within the Property at any time. No vehicles that are not in a condition to be normally operated or that do not have a current registration tag may be stored or situated on any Lot for more than thirty (30) days unless stored in an enclosed garage.

(c) The Owner of each Lot will be responsible for providing on such Owner's Lot a sufficient paved parking area for all vehicles normally parked and/or situated on or in regard to such Lot.

(d) No recreational vehicles or related equipment, including any boat, houseboat, trailer, motor home or "camper" vehicle may be maintained, stored or kept on any portion of the Property, except in an enclosed garage, in an enclosure specifically approved for such maintenance or storage by the Architectural Control Committee, or in a location on a Lot that is not visible from any Roadway or any other Lot, which location has not been approved in advance by the Architectural Control Committee.

(e) No construction office trailers may be placed, erected or allowed to remain on any Lots during construction, except as approved in writing by the Architectural Control

Committee. Provided, however, nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto Lots owned by Declarant to be used as construction or sales offices. Other construction vehicles (trucks, vans, cars, construction equipment, equipment trailers, etc.) may be left overnight on the Property (including any Lot or Roadway) only in accordance with such rules as may be established by the Architectural Control Committee.

Section 21. Nuisances. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's property. No Lot shall be used, in whole or in part, for the deposit, storage or burial of any property or thing that will cause such property to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within any Lot, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Project. There shall not be maintained on any Lot any plants or animals or device or thing of any sort whose activity or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Project. All exterior Lighting shall be in conformance with the Guidelines.

Section 22. Diligent Construction. All construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed Dwelling Units, Accessory Dwelling Units or other Improvements shall be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion. All construction and landscaping must be completed within one (1) year after the date upon which it commenced, unless a longer time is approved in writing by the Architectural Control Committee. Any damage to the Roadways, curbs or sidewalks or any part of any Common Area, Maintenance Area or any utility system caused by an Owner or Owner's builder or such builder's subcontractors shall be repaired by such responsible Owner. Any builder of Improvements and such builder's subcontractors on any portion of the Property shall keep such portion of the Property free of unsightly construction debris, in accordance with the construction rules established by the Architectural Control Committee (or, in the absence of such rules, in accordance with standard construction practices), and shall similarly keep contiguous public and private areas free from any dirt, mud, garbage, trash, or other debris which is occasioned by construction of Improvements. The Board may levy a Special Individual Assessment against an Owner's property in the Project to pay for the cost of repairing any damage to Roadways, curbs or sidewalks or any part of any Roadway, Common Area, Maintenance Area or utility system, to pay for the cost of cleaning public and private areas, including the Roadways in the Project, and to pay for the cost of the removal of garbage, trash or other debris, which are occasioned by the activities of an Owner or Owner's builder or such builder's subcontractors during the construction of Improvements.

Section 23. Public Water System: No Private Individual Wells, Irrigation Restrictions. All water supplies necessary to serve the Project (the "Water System"), and all water mains, pipes and other equipment necessary for the operation and maintenance of the Water System, shall be owned, operated, repaired and maintained by Charlotte Mecklenburg Utility Department or other entity duly licensed and operating under the authority granted by the North Carolina

Department of Public Utilities Commission. All Owners shall connect to the Water System for domestic water service. The Water System shall be the sole provider of water supply to the Project, and no well may be dug or constructed on any Lot for the purpose of providing domestic water supply; provided, however, subject to the approval of the Architectural Control Committee, wells may be dug or constructed for uses including heating, cooling, and irrigation systems.

Section 24. Governmental Requirements. Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction of Improvements on and/or use and utilization of any Lot shall continue to be applicable and shall be complied with in regard to the Lots. Each Owner shall comply with all laws, regulations, ordinances and other governmental rules and restrictions in regard to the Lot(s) or other portion of the Property owned by such Owner (including, without limitation, applicable zoning and watershed laws, SWIM Buffer requires, rules, regulations and ordinances). Each Owner acknowledges that he or she is solely responsible for determining whether any such laws or regulations may be applicable to his or her Lot.

Section 25. Occupants Bound. All provisions of this Declaration, any Additional or Supplemental Declaration and the Bylaws and any and all rules and regulations, use restrictions or Guidelines promulgated pursuant hereto or thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned.

Section 26. Recreational Vehicles. No motorized vehicle used primarily for recreational purposes, including, without limitation, any motorcycle, moped, go-cart, snow mobile, three- or four-wheeled all terrain vehicle, or similar vehicle, may be operated on any Lot or any other part of the Property (including, without limitation, the Trail System), without the prior Consent of the Board provided Declarant and the Association, and their respective employees, contractors and agents, shall have the right to operate such recreational vehicles in connection with the development, maintenance and operation of the Property.

Section 27. Conservation Easement Area Restrictions. All Lot Owners shall, to the extent that all or any portion of their Lot is located within the area described in the Conservation Easement, comply with all requirements contained within the Conservation Easement, including, but not limited to, impervious area requirements.

Section 28. Trees. No tree located on any Lot shall be cut down or removed without the prior written approval of the Board unless such tree has a diameter of less six (6) inches and a height of three (3) feet above the ground.

Section 29. Septic Systems. No septic system shall be constructed on any Lot until the location and type of septic system has been approved by Declarant, in its sole and absolute discretion, or by the Board after the Declarant has relinquished control pursuant to the provisions of Article IV, Section 3.

ARTICLE VIII.

ARCHITECTURAL AND LANDSCAPING CONTROL

Section 1. General. Notwithstanding anything contained in this Declaration to the contrary, no Improvements, including, without limitation, site preparation on any Lot, change in grade or slope of any Lot, or erection of buildings or exterior additions or alterations to any building situated upon the Property, or other similar improvement, erection of or changes or additions in fences, hedges, walls and other structures, any landscaping, or any cutting of trees on any Lot, shall be commenced, erected or maintained on any portion of the Property, subject to the provisions of Article VIII, Section 6 hereof, until: (a) the Architectural Control Committee, appointed as hereinafter provided, has approved the plans and specifications therefor and the location, of such Improvements and has given its written approval for commencement of construction, all in accordance with the terms and requirements in the Guidelines (as defined in Section 3 of this Article VIII) (b) the fees set forth in or contemplated in this Article VIII have been paid; and (c) the contracts identified in this Article VIII have been executed. In addition to any standards established pursuant to this Declaration, Declarant may establish, by Additional Declarations, architectural and landscaping control standards, guidelines and restrictions in regard to various Phases or sections of the Property. Except as otherwise expressly provided herein, the provisions of this Article VIII shall not apply to the construction of any Improvements commenced, erected or maintained by Declarant on any Lot or upon any of the Common Areas or Maintenance Areas.

The Board may delegate to the Architectural Control Committee any powers or authority reserved or granted to the Board under this Article VIII.

Section 2. Composition of Architectural Control Committee. At all time prior to the Turnover Date the members of the Architectural Control Committee shall be appointed by Declarant in its sole discretion. At such time as Declarant no longer owns any Lot or other portion of the Property or at such earlier date as Declarant releases its right to appoint the members of the Architectural Control Committee, the members of the Architectural Control Committee shall thereafter be appointed by the Board. The members of the Architectural Control Committee shall be appointed annually and will be composed of at least three (3) and not more than five (5) individuals, the exact number of members of the Architectural Control Committee to be designated from time to time by the body then having the authority to appoint such members (Declarant or the Board, as the case may be). The members of the Architectural Control Committee need not be Owners of property in the Project. In the event of the death or resignation of any member of the Architectural Control Committee, the party or body then having the authority to appoint members to the Architectural Control Committee shall have full authority to designate and appoint a successor, Members of the Architectural Control Committee may be removed and replaced at any time, with or without cause, and without prior notice, by the party or body then having the authority to appoint such members. Notwithstanding anything contained herein to the contrary, the Architectural Control Committee shall have the right, power and authority to employ and/or use the services of any architects, engineers, attorneys or other professionals as it deems necessary or advisable, in its sole discretion, to carry out the duties and obligations of the Architectural Control Committee as described in this Article VIII.

Section 3. Cheval Design Guidelines.

(a) The Architectural Control Committee shall, from time to time, publish and promulgate Cheval Design Guidelines (collectively, the "Guidelines"), including architectural, design, and landscape guidelines. The Guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Control Committee in reviewing plans and specifications for Improvements. The Guidelines shall also set out, among other things, the procedures for submission, review and approval of plans and specifications to the Architectural Control Committee and the fees to be imposed by the Architectural Control Committee, as more specifically described in Article VIII, Section 7 hereof; and the Guidelines shall address the Builders, as more specifically described in Article VIII, Section 8 hereof. In any event, the Guidelines shall not be binding upon the Architectural Control Committee, may be revised and amended at any time by the Architectural Control Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval or disapproval of plans, specifications and other materials submitted to the Architectural Control Committee for approval. Furthermore, the Architectural Control Committee may publish and promulgate different Guidelines for different Phases, sections or portions of the Property.

(b) The Guidelines shall also be explanatory and illustrative of the general intent of the landscape development of the Property and are intended as a guide to assist the Architectural Control Committee in reviewing plans and specifications for landscape Improvements. The Guidelines shall also set out, among other things, the following:

(i) The procedures for submission, review and approval of landscape plans and specifications to the Architectural Control Committee and the fees to be imposed by the Architectural Control Committee, as more specifically described in Article VIII, Section 7 hereof;

(ii) Standards, methods and procedures for Landscaping, landscape management and landscape maintenance in the Property, including the removal of trees; and

(iii) Standards, methods and procedures for landscaping, landscape management, and landscape maintenance of any part of a Lot that borders a perennial or ephemeral stream or drainage way.

Such authorized standards, methods and procedures shall be utilized by Owners and their contractors and subcontractors, and the approval by the Architectural Control Committee of any landscaping plan or other landscaping improvement in connection with landscaping; on a Lot or other portion of the Property shall be based upon the conformity of such plan or improvement with the Guidelines.

(c) The Architectural Control Committee is also hereby authorized to publish and promulgate from time to time, and revise and amend at any time in its sole discretion, construction rules to be followed by all Owners and builders performing work or constructing or installing Improvements (including landscape Improvements) on the Property.

Section 4. Definition of "Improvements". The term "Improvement" or "Improvements" shall mean and include any and all man-made changes or additions to a Lot, including, but not limited to, the location, materials, size and design of all Dwelling Units, and other buildings (including any exterior devices attached to or separate from buildings, such as heating and air conditioning equipment, solar heating devices, lighting, antennae, satellite dishes, etc.); storage sheds or areas; roofed structures; parking areas; fences; "invisible" pet fencing; horse barns; pet "runs," lines and similar tethers or enclosures; walls; irrigation equipment, apparatus and systems; landscaping (including cutting of trees); hedges; mass plantings; poles; driveways; ponds; lakes; changes in grade or slope; site preparation; swimming pools; hot tubs; Jacuzzis; tennis courts; tree houses; basketball goals; skateboard ramps; and other sports or play apparatus; signs; exterior illumination; and changes in any exterior color or shape. The definition of Improvements includes both original Improvements and all later changes to Improvements. The definition of Improvements, however, does not include the replacement or repair of Improvements previously approved by the Architectural Control Committee, provided such replacement or repair does not change exterior colors, materials, designs or appearances from that which were previously approved by the Architectural Control Committee.

Section 5. Enforcement.

(a) It is Declarant's intent that the architectural control provisions of this Declaration and any Additional Declarations are to permit control of the architectural design and Landscaping and to establish quality standards for construction and construction activity in the Project and to help preserve values of properties in the Project. All Owners, by purchasing property subject to this Declaration, acknowledge that a violation of any such provisions could result in irreparable harm and damage to other Owners of property in the Project and to Declarant, and to the values of their respective properties in the Project, a monetary measure of which harm and damage would be difficult to establish. Accordingly, the Association shall have the specific right (but not the obligation) to enforce and/or to prevent any violation of the provisions contained in this Article VIII by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions. Declarant hereby specifically reserves and grants unto the Architectural Control Committee, the Board and any agent or member thereof, the right of entry and inspection upon any portion of the Property for the purpose of determination by the Architectural Control Committee or the Board whether there exists any construction of any Improvement which violates the terms of any approval by the Architectural Control Committee, the terms of the Guidelines, the terms of this Declaration or any Additional Declaration, or the terms of any amendments hereto or thereto.

(b) As to nonconforming or unapproved Improvements, the Association may require any Owner to restore such Owner's Improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved Improvements) if such Improvements were commenced or constructed in violation of this Article. In addition, the Association may, but has no obligation to, cause such restoration, demolition and removal to be performed and to levy the amount of the cost thereof as a Special Individual Assessment against the Lot or portion of the Property upon which such Improvements were commenced or constructed. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, to remove any unapproved Improvement or otherwise to remedy a violation of the Guidelines, the Association shall be

entitled to recover court costs, attorneys' fees and expenses incurred by the Association and/or the Architectural Control Committee in connection therewith, which costs, fees and expenses may be levied as a Special Individual Assessment against the Lot or other portion of the Property upon which such Improvement was commenced or constructed.

Section 6. Variances. Upon submission of a written request for a variance, which request shall set forth, among other things, the extraordinary circumstances applicable to a Lot giving rise to the need for a variance, the Architectural Control Committee may, from time to time, in its sole discretion, permit Owners to construct, erect or install Improvements which are at variance with restrictions, requirements or provisions of this Declaration or any Additional Declaration from which a variance is permitted, pursuant to the terms hereof or thereof. In any case, however, the Architectural Control Committee may grant a variance only due to the existence of extraordinary circumstances applicable to a Lot, which extraordinary circumstance (i) has not been caused by the Owner of such Lot and (ii) materially impairs the ability of an Owner to construct a Dwelling Unit on such Owner's Lot. Any variance granted shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community and shall not materially change the scheme of restrictions herein set forth. Written requests for variances shall be deemed to be disapproved in the event the Architectural Control Committee has not expressly and in writing approved such request within thirty (30) business days of the submission of such request. No member of the Architectural Control Committee shall be liable to any Owner for any claims, causes of action, or damages arising out of the grant or denial of any variance to any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Architectural Control Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder or under any Additional Declaration against any other Owner. If a variance is granted, the Owner receiving such variance shall comply with the more restrictive of the terms of the variance or applicable local, state or federal laws (including, without limitation, local zoning and development laws), and the granting of a variance shall not relieve any Owner from the obligation of complying with such laws. Notwithstanding anything contained herein to the contrary, in no event shall a variance granted by the Architectural Control Committee be deemed a waiver or assurance of any future variance requests.

Section 7. Fees Required by the Architectural Control Committee. The Architectural Control Committee, in its sole discretion, may require that each Person submitting plans and specifications for Improvements to the Architectural Control Committee pay one or more fees to the Architectural Control Committee or to Declarant as a condition to commencement of construction of such Improvements. Such fee(s), including the amount(s), payee and purpose(s) thereof, shall be established by, and may be increased from time to time by, the Architectural Control Committee and shall be set forth in the Guidelines.

Section 8. Builders. The Architectural Control Committee may require, in its sole discretion, that each Person submitting plans and specifications to the Architectural Control Committee for the construction of Improvements also submit to the Architectural Control Committee a copy of a fully signed contract (for the construction of such Improvements) between the Owner of the relevant Lot and a Builder as a condition to the commencement of construction of any such Improvements.

Section 9. No Construction without Payment of Fees and Use of a Builder. Notwithstanding anything contained in this Article VIII to the contrary, plans and specifications for Improvements to be constructed on a Lot or other portion of the Property shall not be deemed to have been properly submitted unless and until any and all fees required by the Architectural Control Committee to be paid in connection with such Improvements, as provided in Article VIII Section 7 above, shall have been paid to the Architectural Control Committee or Declarant as required. In addition, such plans and specifications shall not be deemed to have been properly submitted unless a copy of a fully signed contract between the Owner of the relevant Lot and a Builder for construction of such Improvements (if required by the Architectural Control Committee), as provided in Section 8 above, shall have been submitted to the Architectural Control Committee.

Section 10. Notices and Submittals. Notices and submittals to the Architectural Control Committee shall be in accordance with the notice provisions set forth from time to time in the Guidelines.

Section 11. Limitation of Liability. No member of the Architectural Control Committee shall be liable for claims, causes of action or damages (except where occasioned by willful misconduct of such member) arising out of services performed pursuant to this Article VIII. Neither the Architectural Control Committee, nor the members thereof, nor the Association, nor Declarant, nor any officers, directors, members, employees, agents or affiliates of any of them, shall be liable for damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of, or the failure to approve or disapprove of, any plans and specifications. The approval of plans and specifications by the Architectural Control Committee shall not be deemed or construed as a representation or warranty of the Architectural Control Committee, Declarant, or any officer, director, member, employee, agent or affiliate of any of them, (i) that Improvements constructed in accordance with such plans and specifications will comply with applicable zoning ordinances, building codes, or other governmental or quasi-governmental laws, ordinances, rules and regulations or (ii) as to the structural soundness, quality, durability, suitability, fitness or proper functioning of Improvements constructed in accordance with such plans and specifications; and any responsibility or liability therefor is hereby disclaimed. Every person who submits plans and specifications, and every Owner, agrees that he will not bring any action or suit against Declarant, the Association, the Architectural Control Committee, the Board, or the officers, directors, members, employees, agents or affiliates of any of them, to recover any such damages and hereby releases, demises, and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. Declarant shall be the sole party responsible for the performance of Declarant's obligations under this Declaration, and no other person, firm or entity, including, without limitation, any entity affiliated with Declarant, shall have any obligation or liability for Declarant's obligations under this Declaration.

Section 12. Featured Builders The Featured Builders, as defined in Article I above, will be identified from time to time by the Board of Directors or the Architectural Control

Committee of the Association, in their sole discretion. The builders identified from time to time as Featured Builders may, and likely will, change over time. By contract, Declarant will require that Featured Builders comply with the elements of Declarant's program for Featured Builders. Therefore, except as provided below, all of the Lots to be conveyed by Declarant to a Builder for construction of improvements on a Lot shall be conveyed to Featured Builders and, except as provided below, all contracts for the construction of improvements by Owners likewise shall be with Featured Builders. The Board of Directors or the Architectural Control Committee may require, in its discretion, that each person submitting plans and specifications for the construction of improvements on any Lot also shall submit a copy of a fully signed contract for construction for such improvements between the Owner of the relevant Lot and a Builder. In no event shall the plans and specifications for any improvements to be constructed on any Lot be deemed to have been properly submitted unless and until any and all fees required by the Architectural Control Committee or Board of Directors have been paid and until a copy of a fully signed contract between the Owner of the relevant Lot and a Builder for construction of the improvements has been submitted to the Architectural Control Committee.

In no event shall the Architectural Control Committee, Board of Directors of the Association or Declarant, nor any of the officers, directors, members, employees, agents or affiliates of any of them, have any responsibility whatsoever for any actions or inactions by a Featured Builder. By way of illustration and without limiting the generality of the foregoing sentence, none of the foregoing parties shall have any liability or responsibility for any failure of a Featured Builder to comply with any legal requirements applicable to it or applicable to the construction of any improvements or the non-compliance of any Featured Builder with any contractual obligations that the Featured Builder may owe to any Owner, including the proper execution of its work or the proper escrow, accounting, deposit or the payment of any earnest money or other sum of money that Owner may deliver to any Featured Builder. The selection of the Featured Builder by the Owner shall be conclusive evidence that such Owner has independently satisfied itself with regard to any and all concerns that such Owner may have about the Featured Builder's qualifications. No Owner shall rely upon the advice or representation of the Architectural Control Committee, Board of Directors of the Association, Declarant or any of the officers, directors, members, employees, agents or affiliates of any of the them with respect to the selection of employment or retention of any Featured Builder.

In no event shall any improvements be undertaken on any Lot except pursuant to a bonafide contract with a Featured Builder who directly supervises, and controls the construction of such improvements. Each Owner, by acceptance of a deed for any Lot, acknowledges that this obligation to engage a Featured Builder to undertake the improvement of any Lot is binding upon each Owner and that a Builder, in order to be included as a Featured Builder within the Properties, is agreeing to comply with the elements of Declarant's program for Featured Builders, including without limitation, a requirement that each Featured Builder pay such marketing and other fees and amounts that Declarant may require as an element of the Featured Builder program.

Provided, however, with respect to construction on Lots larger than 2.5 acres, Declarant may, in its sole discretion, waive the foregoing Featured Builder requirements and restrictions contained in this Section 12, so long as the Builder which is not a Featured Builder is otherwise approved by Declarant.

Section 13. Miscellaneous. Members of the Architectural Control Committee, in the sole discretion of the party or body appointing such members (*i.e.*, either Declarant or the Board, as the case may be) may be compensated for their services. The Association shall reimburse members of the Architectural Control Committee for reasonable out-of-pocket expenses associated with their activities hereunder. All costs, expenses and attorneys' fees of the Architectural Control Committee, including those incurred in connection with the exercise of their enforcement or other powers as provided herein, shall be borne by the Association; provided, however, nothing herein shall be deemed to negate the Association's right to an award of court costs, attorneys' fees and expenses in accordance with Article VIII, Section 5 hereof.

ARTICLE IX.

INSURANCE; REPAIR AND RESTORATION; CONDEMNATION

Section 1. Board of Directors. The Board of Directors shall obtain and maintain at all times insurance of the type and kind and in no less than the amounts set forth below:

(a) Fire. All improvements and all fixtures and personal property included in the Common Areas and Maintenance Areas and all personal property and supplies belonging to the Association shall be insured in an amount equal to the current replacement cost (exclusive of land, foundation, excavation and other normally excluded items) as determined annually by the Board with the assistance of the insurance company providing coverage. The Board shall, at least annually, review the insurance coverage required herein and determine the current replacement cost of such improvements and fixtures and personal property and supplies. Such coverage shall provide protection against Loss or damage by fire or other hazards covered by a standard extended coverage endorsement, windstorm and water damage, vandalism and malicious damage and all perils covered by a standard "all risk" endorsement. In addition to the provisions and endorsements set forth in Article IX, Section 3 and Section 4, the fire and casualty insurance described herein shall contain the following provisions:

- (i) standard "Agreed Amount" and "Inflation Guard" endorsements;
- (ii) construction code endorsements if the Common Area becomes subject to a construction code provision which would require changes to undamaged portions of any building thereby imposing significant costs in the event of partial destruction of such building by an insured peril;
- (iii) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Owners and their employees, agents, tenants and invitees; and
- (iv) a provision that the coverage will not be prejudiced by act or neglect of one or more Owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

The fire and casualty insurance policy shall not contain (and the insurance shall not be placed with companies whose charters or bylaws contain) provisions whereby: (1) contributions or assessments may be made against the Association or the Owners; (2) loss payments are contingent upon action by the carrier's directors, policy holders or members; and (3) there are limiting clauses (other than insurance conditions) which could prevent Owners from collecting the proceeds.

(b) Public Liability. The Board shall also be required to obtain and maintain, to the extent obtainable, public liability insurance and officer's and director's liability insurance in such limits as the Board may, from time to time, determine to be customary for projects similar in construction, location and use as the Project, covering each member of the Board, the managing agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance, or repair of the Common Areas and Maintenance Areas, or from service on the Board; provided, however, in no event shall the amounts of such public liability insurance ever be less than \$2,000,000 per occurrence against liability for bodily injury, including death resulting therefrom, and damage to property, including loss of use thereof, occurring upon, in or about, or arising from or relating to, the Property or any portion thereof, nor shall the amount of such officer's and director's insurance be less than \$2,000,000 unless such coverage is determined by the Board to be unreasonably expensive. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner. The Board shall review such limits annually. Until the first meeting of the Board following the initial meeting of the Association Members, such public liability insurance shall be in amounts of not less than \$2,000,000 per occurrence for claims for bodily injury and property damage and such officer's and director's liability insurance shall be in amounts not less than \$2,000,000.

(c) Fidelity Coverage. The Board shall also be required to obtain fidelity coverage against dishonest acts on the part of all persons, whether officers, directors, trustees, employees, agents or independent contractors, responsible for handling funds belonging to or administered by the Association. The fidelity insurance policy shall be written in an amount sufficient to provide protection which is in no event less than one and one-half times the Association's estimated annual operating expenses and reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(d) Other. Such other insurance coverages, including flood insurance and worker's compensation, as the Board shall determine from time to time desirable.

Section 2. Premium Expense. Premiums upon insurance policies purchased by the Board shall be paid by the Board and charged as a common expense to be collected from the Owners pursuant to the terms of this Declaration.

Section 3. Special Endorsements. The Board shall make diligent efforts to secure insurance policies that will provide for the following:

(a) recognition of any insurance trust agreement entered into by the Association;

(b) coverage that may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the named insured and any insurance trustee; and

(c) coverage that cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board without prior demand in writing that the Board cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association or any Owner.

Section 4. General Guidelines. All insurance policies purchased by the Board shall be with a company or companies licensed to do business in the State of North Carolina and holding a rating of 'A VIII' or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Association and shall be issued in the name of and provide that all proceeds thereof shall be payable to the Association. Notwithstanding any of the foregoing provisions and requirements relating to insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, who shall have exclusive authority to negotiate losses under any policy providing such insurance.

Section 5. Insurance Proceeds. Subject to any limitations imposed by any applicable financing documents, the Association shall use the net proceeds of casualty insurance covered by it to repair and/or replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of casualty insurance paid to the Association remaining after satisfactory completion of repair and replacement shall be retained by the Association as part of the general reserve fund for repair and replacement of the Common Area and/or Maintenance Areas.

Section 6. Insufficient Proceeds. If the insurance proceeds received by the Association are insufficient to reimburse, to repair and/or replace any damage or destruction to person or property, the Board may levy a Special Assessment against the Owners to cover the deficiency.

Section 7. Owner's Personal Property. Neither the Association nor Declarant shall be liable in any manner for the safekeeping or condition of any personal property belonging to, or used by any Owner or his family, tenants, guests or invitees, located on or used at the Common Areas. Further, neither the Association nor Declarant shall be responsible or Liable for any damage or loss to any personal property of any Owner, his family, tenants, guests or invitees located on or used at the Common Areas. Each Owner shall be solely responsible for all personal property and for any damage thereto or loss thereof, and shall be responsible for the purchase of, at such Owner's sole cost and expense, any liability or other insurance for damage to or loss of such property. Neither the Association nor Declarant shall be responsible or liable for any damage or loss to or of any personal property located on or used in the Common Areas. Each Owner shall be solely responsible for all such personal property and for any damage thereto or loss thereof, and shall be responsible for the purchase, at such Owner's sole cost and expense, of any liability or other insurance for damage to or loss of such property.

Section 8. No Obligation to Insure Owners' Property. By virtue of taking title to a Lot within the Project, each Owner acknowledges that neither the Association nor Declarant has any obligation to provide any insurance for any portion of such Lot or any Dwelling Unit or other Improvement or property located thereon.

Section 9. Security. The Association may, in its sole discretion, but shall not be obligated to, provide certain security and fire protection measures, and maintain or support certain other activities within the Project designed to make the Project safer than it might otherwise be. Provided, however, should the Association provide, maintain or support any such measures or activities, then neither the Association, Declarant, nor any successor of Declarant shall in any way be considered insurers or guarantors of security or fire protection within the Project, and neither the Association, Declarant nor any successor of Declarant shall be held liable for any loss or damage by reason or failure to provide or take any security or fire protection measures or for the ineffectiveness of any such measures undertaken. Each Owner and Occupant of any Lot and each tenant, guest and invitee thereof acknowledges and understands that neither the Association, Declarant nor any successor of Declarant are insurers, and each such Owner, and Occupant of a Lot and their tenants, guests and invitees hereby assume all risks for loss or damage to persons, property or contents belonging to any such persons.

Section 10. Condemnation. Whenever all or part of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for and on account of such taking shall be paid to the Association. The Association, acting through the Board, shall have the right to negotiate and litigate the issues with respect to the taking and compensation affecting its interest in the Common Area, without limitation on the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Lot or other portion of the Property, hereby appoints the Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Common Area. All compensation and damages paid to the Association on account of such a taking shall be used to restore the Common Area, provided such restoration is possible, with the excess, if any, to be retained by the Association and applied to future operating expenses by the Board, in its sole discretion. Nothing herein is to prevent Owners whose Lots or other property are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots or other property, or improvements, fixtures or personal property thereon, exclusive of damages relating to the Common Area. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Common Area, Lots or other property without such allocation, the award shall be divided between affected Owners and the Board, as their interests may appear, by the Board in its sole discretion.

ARTICLE X.

EASEMENTS AND OTHER RIGHTS

Declarant, in addition to any other easements granted or reserved herein, hereby reserves unto itself, its successors and assigns, and grants to the Association and any other persons or

entities hereinafter set forth, the following non-exclusive easements on, upon, over, across, through and under the Property. In addition, Declarant hereby reserves unto itself, its successors and assigns, the right, on behalf of itself and the Association, to grant additional easements on, upon, over, across, through and under the Common Areas and any portion of the Property owned by Declarant as deemed to be in the best interests of and proper for the Project, including, but not limited to, easements in favor of Declarant, the Association, the Owners, and all their family members, guests, invitees and tenants and to various governmental and quasi-governmental authorities and agencies and private concerns for the purposes and uses hereinafter specified.

Section 1. Easements and Cross-Easements on Common Areas. Declarant, for itself, its designees and the Association, reserves the right to impose upon the Common Areas henceforth and from time to time such easements and cross-easements for ingress and egress, installation, maintenance, construction and repair of utilities and facilities including, but not limited to, electric power, telephone, cable television, master antenna transmission, surveillance services, governmental and quasi-governmental purposes, sewer, water, gas, drainage, landscaping, trails and accompanying minor structures, irrigation, storm water management, lighting, television transmission, garbage and waste removal, emergency services, and the like as it deems to be in the best interests of, and necessary and proper for, the Project or any portion thereof.

Section 2. Use of Common Areas. Subject to any limitation or restriction set forth in this Declaration, Declarant declares that the Common Areas are subject to a perpetual nonexclusive easement in favor of Declarant, the Association and their designees, the Owners and all their family members, guests, invitees and tenants, and appropriate governmental and quasi-governmental agencies to use the Common Areas for all proper and normal purposes including, but not limited to, ingress, egress and access for the furnishing of services and utilities and for such use of the facilities as the same are reasonably intended in accordance with the terms of this Declaration and any Additional Declaration. If ingress or egress to any Lot or other portion of the Property is through any Common Area, any conveyance or encumbrance of such area is subject to this easement.

Section 3. Right-of-Way Over Roadways. Declarant hereby reserves, for the benefit of itself, its agents, employees, lessees, invitees, designees, successors and assigns, and grants to the Association, its agents, employees, tenants, invitees, designees, successors and assigns, and to each Owner of a Lot, their family members, tenants, guests, invitees, successors and assigns, and to each Occupant of a Lot, and to all governmental and quasi-governmental agencies and service entities having jurisdiction over the Property while engaged in their respective functions, a perpetual non-exclusive easement, license, right and privilege of passage and use, both pedestrian and vehicular, over and across the Roadways for the purpose of providing access, ingress and egress to and from, through and between the Property.

Section 4. Right of the Association and Declarant to Enter Upon the Common Areas and Maintenance Areas. Declarant hereby reserves for the benefit of itself, its successors in interest and assigns, and grants to the Association and all agents, employees or other designees of Declarant or the Association an easement for ingress, egress and access to enter upon or over the Common Areas and Maintenance Areas for the purposes of inspecting any construction,

proposed construction, or Improvements or fulfilling the rights, duties and responsibilities of ownership, administration, maintenance and repair of Declarant or the Association, as appropriate. Such easement includes an easement in favor of the Association and Declarant to enter upon the Common Areas and Maintenance Areas now or hereafter created to use, repair, maintain and replace the same for the purposes for which they are initially designated or for such purposes as they are hereafter redesignated or as Declarant otherwise determines them to be reasonably suited. Notwithstanding the foregoing, nothing contained herein shall be interpreted as imposing any obligation upon the Association or Declarant to maintain, repair, or construct Improvements which an Owner is required to maintain, construct or repair.

Section 5. Easement for Encroachments. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Association, the Owners, their successors and assigns, and to the Occupants of Lots, easements for encroachments, to the extent necessary, in the event any portion of the Improvements located on any portion of the Property now or hereafter encroaches upon any of the remaining portions of the Property as a result of minor inaccuracies in survey, construction or reconstruction, or due to settlement or movement. Any easement(s) for encroachment shall include an easement(s) for the maintenance and use of the encroaching Improvements in favor of Declarant, the Association, the Owners and all their designees.

Section 6. Easements Regarding Trail System. Declarant hereby reserves, for the benefit of itself, its agents, employees, lessees, invitees, designees, successors and assigns, and grants to the Association, its agents, employees, tenants, invitees, designees, successors and assigns, and to each Owner of a Lot, their family members, tenants, guests, invitees, successors and assigns, and to each Occupant of a Lot, a perpetual non-exclusive easement, right and privilege of passage and use, both pedestrian and non-motorized vehicular, over and across any and all hard surface or soft surface sidewalks, trails, biking, walking or jogging paths, or similar pathways located upon those portions of the Property designated by Declarant as part of a system of hard surface or soft surface sidewalks, pedestrian and equestrian trails, biking, walking or jogging paths including all trail related signs and structures within the Property as may be shown on any Plat (collectively, the "Trail System"), and the right to use and enjoy any shelters, railing, boardwalks, or other facilities constructed or installed by Declarant or Association within the Trail System. The Trail System will be shown and identified as such on recorded Plats. Declarant further reserves, for the benefit of itself, its agents, employees, tenants, invitees, designees, successors and assigns, and grants to the Association, its agents, employees, tenants, invitees, designees, successors and assigns, a perpetual non-exclusive easement to construct, install, operate, and maintain shelters, railing, fences, boardwalks, and similar facilities and improvements within the Trail System.

Section 7. Cross Easement for Pedestrian and Equestrian Use of Trails. There is located on the Equestrian Facility a system of pedestrian and equestrian trails ("the Equestrian Facility Trails") which tie into and integrate with the Trail System located, or to be located, on the Property. However, the Equestrian Facility is not a part of the Property nor is it subject to the provisions of this Declaration. Declarant, Paris Family, LLC, and the other entities have entered into a Reciprocal Cross Easement Agreement whereby Paris Family, LLC, as Owner of the Equestrian Tract, its successors and assigns, in Ownership of the Equestrian Tract, their agents, employees, invitees, guests, and customers have been granted a permanent non-exclusive

easement for the use of the Trail System located on the Property for equestrian and pedestrian purposes and Paris Family, LLC has granted to the Declarant, the Association and all of its Members, a permanent non-exclusive easement for the use by the Association and its Members of the Equestrian Facility Trails for pedestrian and equestrian purposes. Use of the Trail System by Paris Family, LLC and its assigns shall be in accordance with such Rules and Regulations as have been adopted by the Board, from time to time, as are applicable to the use of the Trail System and the Declarant, the Association's and Owner's use of the Equestrian Facility Trails shall be in accordance with the same Rules and Regulations as may, from time to time, be applicable to the use and enjoyment of the Trail System located on the Property.

Section 8. Maintenance Areas. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Association, its successors and assigns, the following nonexclusive perpetual easements over certain areas of the Property as hereinafter described for the purposes hereinafter described:

(a) Easements for the purposes of landscaping and maintaining entryways and erecting and maintaining entrance monument(s) for the Project, over, across and under those portions of the Property shown and designated as "Entry Easement" on the Plats (herein referred to as the "Entrance Easements"). Declarant and/or the Association shall have the right to landscape and maintain the areas of the Property so designated as entryways to the Project, to erect and maintain entrance monument(s) thereon bearing the name of the Project, and to erect and maintain lighting for such monument(s), plantings, landscaping, irrigation systems and other improvements typically used for entryways.

(b) Easements for the installation, maintenance, repair and removal of landscaping and landscaping amenities, including signage, lighting, monuments and irrigation systems, over, across and under those portions of the Property shown and designated as "Landscape Easements" on the Plats (herein referred to as "Landscape Easements").

(c) Easements for the installation, maintenance, repair and removal of hard surface or soft surface sidewalks, trails, walking or jogging paths, or similar pathways over, and shelters, railing, boardwalks, and similar facilities, across and under those portions of the Property being part of the Trail System.

All of the above-described areas and items shall herein be referred to as the "Maintenance Areas." The Association shall maintain the Maintenance Areas to a consistent standard of maintenance typical of a first-class development.

Section 9. Utility and Drainage Easements. The Property shall be subject to all easements and rights-of-way for utilities and drainage shown on the Plats, including, but not limited to, those certain easements shown and designated on the Plats as:

- (a) "Utility Easement";
- (b) "Public Storm Drainage Easement";
- (c) "Sanitary Sewer Easement"; and

(d) "Sanitary Sewer Right-of-Way."

Such easements are hereby reserved for the use of Declarant, its successors and assigns, and are hereby established for the use of the Association, its successors and assigns, and include, without limitation, storm drainage easements of variable width, whether or not depicted on a Plat, over the entire area within all ditches along any Roadway.

Additionally, Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Association, its successors and assigns, a non-exclusive easement and right-of-way over, under and along (a) a ten (10) feet-wide strip of land adjacent to the front, side and rear boundary lines of all Lots within the Property and (b) all Landscape Easements, for the installation and maintenance of lines, conduits, pipes and other equipment necessary for furnishing electric power, gas, telephone service, cable service, water, irrigation, sanitary sewer and drainage facilities, storm drainage and/or other utilities. Within the above-described easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation of utilities or which may change the direction or flow of drainage channels in the easements. This reservation of easements shall not prohibit the construction of driveways, at locations approved by the Architectural Control Committee, over such easements.

Section 10. Declarant's Right to Assign Easements, Maintenance of Easement Areas. Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder. The areas burdened by the easements and rights-of-way reserved by Declarant on each Lot or other portion of the Property pursuant hereto, including any Improvements in such areas, which are not to be maintained by the Association or a public authority or utility, shall be maintained continuously by each Owner of such Lot or other portion of the Property, but no structures, plantings or other material shall be placed or permitted to remain upon such areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion problems. Notwithstanding the above, the Association and/or Declarant shall have the right, but not the obligation, to maintain the landscaping in the easement areas on any Lot.

Section 11. Easement Reserved for the Association and Declarant. Full rights of access, ingress and egress are hereby reserved by Declarant for itself and the Association at all times over and upon any Lot or other portion of the Property for the exercise of the easement rights described in this Article X and for the carrying out by Declarant or the Association of the rights, functions, duties and obligations of each hereunder; provided, that any such entry by Declarant or the Association upon any Lot or portion of the Property shall be made with the minimum inconvenience to the Owner of such property as is reasonably practical, and any damage caused as a result of the gross negligence of Declarant, the Association or their employees or agents shall be repaired by Declarant or the Association, as the case may be, at the expense of Declarant or the Association, as the case may be.

Section 12. Additional Easements. Declarant shall have the right to grant over, under, across and upon any portion of the Property owned by Declarant, and the Board shall have the authority, in its sole discretion, to grant over, under, across and upon the Common Areas, such

easements, rights-of-way, licenses and other rights in accordance with or to supplement the provisions of this Declaration or as may otherwise be desirable for the development of the Project, by the execution, without further authorization, of such grants of easement or other instruments as may from time to time be necessary or desirable. Such easements may be for the use and benefit of persons who are not Association Members or Owners. After such time as the members of the Board are no longer appointed by Declarant, the Board shall cooperate with Declarant and execute such grants of easements over the Common Areas as may be desirable to Declarant for the development of the Project and the preservation and enhancement of Declarant's interest therein.

Section 13. No Merger of Easements. The easements hereby established shall not be terminated by merger or otherwise, except upon execution and recordation of an instrument specifically terminating any such easement.

ARTICLE XI.

RIGHT OF FIRST REFUSAL

Section 1. Applicability. Except for sales and conveyances by Declarant, any affiliate of Declarant or any Featured Builder, no unimproved Lot may be sold by any Owner except in compliance with this Article.

Section 2. Right of First Refusal. Before any unimproved Lot (or ownership or interest therein) may be sold to any Person other than Declarant or its successors, the Owner or Owners of such Lot shall first offer in writing to sell the Lot to Declarant or its successors at a price equal to: (1) the contract price paid by such Owner for such Lot (excluding all finance charges related to the purchase) increased by the percentage increase, from the closing date of such Owner's purchase of such Lot to the date of such written offer to sell the Lot to Declarant or its successors, in the Consumer Price Index, All Urban Consumers, United States, All Items (1982.84=100) issued by the United States Bureau of Labor Statistics (the "CPI"), less (2) the costs of removing all liens and encumbrances on the Lot and customary seller's closing costs. If the CPI is discontinued, then there shall be used the index most similar to the CPI which is published by the United States Government indicating changes in the cost of living. For the purposes of this Article, a Lot shall be considered as unimproved unless and until any proposed improvements to such Lot have been approved by the Architectural Control Committee and the good faith commencement of the construction of such improvements (i.e., at a minimum, completion of the footings and foundation of the approved residence and bona fide evidence of total expenditures for improvements to the Lot of \$50,000.00) shall have occurred. Upon receipt by an Owner of a bona fide offer to purchase an unimproved Lot, such Owner shall send to Declarant a copy of such bona fide offer along with written notification that such Owner is offering the Lot for sale to Declarant pursuant to this right of first refusal. If Declarant or its successor does not accept or reject in writing said offer of sale within thirty (30) days from the date of receipt of the same, then the Owner or Owners of such Lot shall have the right to sell the Lot to the third party making such bona fide offer, without any further additional obligation to offer the Lot to Declarant. Declarant shall have this right of first refusal with regard to each bona fide offer which an Owner receives for the purchase of an unimproved Lot. Any Owner who