


FOR REGISTRATION JUDITH A. GIBSON
REGISTER OF DEEDS
MECKLENBURG COUNTY, NC
2006 SEP 27 10:52 AM
BK:20337 PG:784-841 FEE:\$182.00
INSTRUMENT # 2006079791

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DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

FOR

VILLAGE OF ST. ANDREWS TOWNHOMES

Drawn by and Mail to:
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Wallace, Pittman & Webb, PLLC
2101 Rexford Road, Suite 100E
Charlotte, NC 28211
ROD BOX 241

DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS

FOR

VILLAGE OF ST. ANDREWS TOWNHOMES

This Declaration is made as of the 26th day of April, 2006, by WKB ST. ANDREWS, LLC, a North Carolina limited liability company ("Declarant") with reference to the following facts:

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property, which real property, together with such portions of the Additional Land (as hereinafter defined), if any, as Declarant may elect to add to such property by filing of a Map thereof and supplemental filing pursuant to Article 15 hereof, shall be hereinafter referred to as "VILLAGE OF ST. ANDREWS TOWNHOMES" located in Mecklenburg County, North Carolina and more particularly described on Exhibit A attached hereto and made a part hereof. Declarant intends to improve VILLAGE OF ST. ANDREWS TOWNHOMES as a planned residential townhome development by dividing such property into lots appropriate for single-family attached townhome dwellings; and

WHEREAS, Declarant owns or may hereafter own real property in Mecklenburg County, North Carolina located adjacent to the property hereinabove described (which, if applicable to this Declaration, is more particularly described on Exhibit B attached hereto and made a part hereof and referred to herein as the "Additional Land"). Declarant may, in its sole discretion and without obligation, by one or more supplemental filings pursuant to Article 15 hereof, make all or any portion of the Additional Land, if any, subject to this Declaration and a part of Village of St. Andrews Townhomes; and

WHEREAS, Declarant intends to develop Village of St. Andrews Townhomes under a common scheme and general plan for its improvement and maintenance; and

WHEREAS, for this purpose Declarant intends to (and with respect to the Additional Land, if any, reserves the right to), subject the initial Maps of Village of St. Andrews Townhomes as described on Exhibit A, and so much of the Additional Land, if any, as shall, from time to time, be annexed in accordance with the provisions of this Declaration, to the covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth in this Declaration, for the benefit of Village of St. Andrews Townhomes and the future owners of Lots therein; and

WHEREAS, Declarant deems it desirable for the management and administration of the planned development and for the preservation of the values and amenities of the planned development to incorporate Village of St. Andrews Townhomes Homeowners Association of Matthews, Inc. Homeowners Association, Inc. as a nonprofit corporation under the laws of the State of North Carolina for the purposes of providing for the maintenance and upkeep of the exterior of all residential units and the Common Area, administering the limitations, covenants,

conditions, restrictions, easements, liens and equitable servitudes created by or imposed in accordance with the provisions hereof, collecting and disbursing the assessments and charges imposed in accordance with the provisions hereof, and exercising such other powers as may be authorized by this Declaration, by law, or by its Articles of Incorporation and Bylaws.

NOW, THEREFORE, Declarant hereby declares as follows:

ARTICLE I DEFINITIONS

The following terms shall have the following meanings when used in this Declaration:

1.01. Act. "Act" means and refers to the North Carolina Planned Community Act, Chapter 47F, North Carolina General Statutes.

1.02. Additional Land. "Additional Land" means the real property described on Exhibit B, if any shall be attached hereto, all or any portion of which may from time to time be made subject to this Declaration pursuant to the provisions of Article 15 hereof and which, when so subjected, shall become a part of the Property.

1.03. "Architectural Control Committee" or "ACC" shall mean the committee of the Association created pursuant to Article 13 with authorization over new construction, modifications and alterations in the Property.

1.04. Articles. "Articles" means the Articles of Incorporation of the Association, including any amendments thereto.

1.05. Association. "Association" means Village Of St. Andrews Townhomes Homeowners Association of Matthews, Inc, a North Carolina nonprofit corporation, its successors and assigns.

1.06. Board. "Board" means the Board of Directors of the Association.

1.07. Bylaws. "Bylaws" means the Bylaws of the Association, including any amendments thereto.

1.08. City. "City" means the Town of Matthews in Mecklenburg County in the State of North Carolina.

1.09. Common Area. "Common Area" or "Common Areas" means all real property owned by or held in trust for the benefit of the Association for the common use and enjoyment of its Members, or owned by Declarant and designated for the common use and enjoyment of the Association and its Members, and all improvements and facilities constructed thereon for such purposes, including, but not limited, to any signage, irrigation and/or drainage or detention facilities, including the detention pond, dam, pump station and related facilities, if any, fountain,

water feature, wells, pumps and related facilities, landscaping, retaining walls, lighting, swimming pool, wading pool, green or natural area, walking paths or trails, picnic area, club house, roadway, driveway, parking area, gazebo or other amenity constructed on portions of the Property designated "Common Open Space", "Common Area", "Amenity Area" or other similar designation on Map(s) of the Property recorded in public records of the County. "Common Area" or "Common Areas" shall also include (i) all private streets and private utilities, if any, (ii) any public road, right-of-way or cul-de-sac in the Property which has been dedicated to the public on Map(s) of the Property recorded in the County but not accepted for public maintenance by the appropriate governmental entity, (iii) any median or planting area and related signage, irrigation facilities and lighting constructed by Declarant within rights-of-way within the Property, and (iv) such easement rights for right-of-way and appurtenant easements or licenses as Declarant may declare, acquire or reserve or as are granted to the Association for the benefit of the Owners and their permittees or for the use, care or maintenance of any portion of the Property, including, but not limited to, rights-of-way and appurtenant easements or licenses for landscaping, trees, plantings, irrigation, retaining walls, signage, monuments, lighting, water, sanitary sewer, storm sewer, storm water drainage and/or retention, communications and/or other utility services. Declarant hereby grants to the Association an easement over any road, right-of-way or cul-de-sac within the Property which shall automatically terminate upon dedication to and acceptance for public maintenance by the appropriate governmental entity.

1.10. Completion of Sales. "Completion of Sales" means the earlier of (a) the conveyance of all Lots in the Property to purchasers other than a successor Declarant hereunder, or (b) the expiration of the later of (i) ten (10) years from the closing of the first sale of a Lot by Declarant, (ii) three (3) years from the conveyance of the first Lot in the Phase most recently made subject to this Declaration (provided, however, if Declarant is delayed in developing the Property, constructing improvements or selling Lots and dwellings due to strikes or work stoppages; shortages of materials, supplies, fuel, power, or energy; moratoria or suspensions on issuance of land use permits and approvals or affecting the availability of water, sewer, power or other utilities or necessary services; inclement weather; civil strife; major disaster or other cause beyond Declarant's reasonable control, said ten (10) year period shall be extended by the period of any such delay), or (iii) at such time as Declarant records a Notice of Termination of Sales in the public records of the County.

1.11. County. "County" means Mecklenburg County in the State of North Carolina.

1.12. CPI. "CPI" means The Consumer Price Index For All Urban Consumers ("CPI-U"), U.S. City Average (All Items) published by the United States Bureau of Labor Statistics.

1.13. Declarant. "Declarant" means WBK ST. ANDREWS, LLC, a North Carolina limited liability company, and any successor or assign to whom Declarant assigns its interest as Declarant hereunder in whole or in part by instrument recorded in the official records of the County.

1.14. Declaration. "Declaration" means this Declaration and all amendments or supplements hereto.

1.15. FHA. "FHA" means the Federal Housing Administration.

1.16. Insurance Trustee. "Insurance Trustee" means a national banking association or title company licensed to do business in North Carolina as may be designated by the Association to hold and disburse funds as trustee for the Association and the Owners, as provided in this Declaration.

1.17. Lot. "Lot" means any numbered lot or plot of land, together with any improvements thereon, which is shown upon any Map covering the Property, or a part thereof, which is not dedicated right-of-way or Common Area.

1.18. Map. "Map" means a recorded boundary or subdivision plat of all or a portion of the Property recorded in the County Public Registry.

1.19. Member. "Member" means a member of the Association.

1.20. Mortgage. "Mortgage" means a mortgage or deed of trust which constitutes a first lien upon a Lot given to a bank, savings and loan association or other institutional lender for the purpose of securing indebtedness incurred to purchase or improve a Lot.

1.21. Mortgagee. "Mortgagee" means the holder of the beneficial interest in any Mortgage.

1.22. Notice and Opportunity for Hearing. "Notice and Opportunity for Hearing" means giving at least fifteen (15) days' prior notice of a proposed action and the reasons therefore, and an opportunity to be heard by the Board, orally or in writing, not less than five (5) days before the effective date of the proposed action.

1.23. Owner. "Owner" means the record owner, whether one or more persons or entities, of fee simple title to any Lot, and shall include Declarant as to any Lot owned by Declarant. "Owner" shall not include any person or entity who holds an interest in a Lot merely as security for the performance of an obligation or as a tenant.

1.24. Person. "Person" means an individual, corporation, partnership, limited liability company, trustee or other legal entity capable of holding title to real property.

1.25. Property. "Property" means the portion of Village of St. Andrews Townhomes described on Exhibit A and, when and if subjected to the terms and provisions of this Declaration by Declarant acting in its sole discretion, all or any portion of the Additional Land, if any, and any other real property subjected to this Declaration by Supplemental Declaration recorded pursuant to Article 15 hereof.

1.26. Phase. "Phase" means the real estate shown on each Map of the Property, including the portion of Village of St. Andrews Townhomes described on Exhibit A, as recorded in the County Public Registry.

1.27. Rules and Regulations. "Rules and Regulations" means reasonable and nondiscriminatory rules and regulations as may be adopted from time to time by the Association, provided notice of such rules and regulations has been given to Owners in accordance with the requirements of this Declaration.

1.28. Special Declarant Rights. "Special Declarant Rights" means, without limitation, the rights as defined in Section 47F-1-103(28) of the Act for the benefit of a Declarant, which are hereby reserved in favor of Declarant, including, but not limited to the following: the right to complete, repair, maintain, replace and operate improvements indicated on Maps of the Property; the right to exercise any development right; the right to maintain sales offices, manage offices, models and signs advertising the Property; the right to use easements through the Common Area and through any Lot or Lots for the purpose of making, repairing, maintaining, replacing and operating improvements within the Property, and the right to elect, appoint or remove any officer or Board member of the Association during any period of Declarant control.

1.29. Supplemental Declaration. "Supplemental Declaration" means a supplemental declaration of covenants, conditions and restrictions which shall be recorded for the purposes of annexing additional property, including all or any portion of the Additional Land, if any, to the Property and causing such property to be subject to the scheme of covenants, conditions and restrictions contained in this Declaration.

1.30. Voting Power. "Voting Power" means the total number of votes allocated to Members (or to a class of Members) whose membership at the time the determination of voting power is made has not been suspended in accordance with the provisions of this Declaration or the Rules and Regulations. Voting Power shall be computed by including all such Members whether or not such Members are present in person or by proxy at a meeting. All voting specifications and requirements shall apply to the entire Property.

ARTICLE 2 SUBMISSION AND TERM

2.01. Submission. The Property shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to each and all of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein, all of which are declared to be (a) in furtherance of a common scheme and general plan for the development, improvement and maintenance of the Property and (b) for the purpose of enhancing, maintaining and protecting the value, desirability and attractiveness of the Property. All of the limitations, covenants, conditions, restrictions, easements, liens, charges, assessments and equitable servitudes set forth herein shall run with, be binding upon and inure to the benefit of the Property, shall be binding on and inure to the benefit of each and every person having or acquiring any right, title or interest in the Property, shall be binding upon and inure to the benefit of the successors in interest of such persons, and shall inure to the benefit of the Association, its successors and assigns.

2.02. Incorporation of Declaration Into Instruments. Any deed or other instrument by which a Lot is conveyed shall be subject to the provisions of this Declaration and shall be deemed to incorporate the provisions of this Declaration, as amended from time to time, whether or not the deed makes reference hereto.

2.03. Term. This Declaration shall remain in force until terminated by the affirmative vote of ninety percent (90%) of the total Voting Power of the Association and the written consent of ninety percent (90%) of the Mortgagees; provided, however, that if a two-class voting structure is in effect such action shall require the written approval of FHA if at the time of such vote FHA is the insurer or guarantor of any loan secured by a Mortgage.

ARTICLE 3

COMPLIANCE WITH MANAGEMENT DOCUMENTS

3.01. Compliance with Declaration and Other Documents. Each Owner, resident, tenant or guest of a Lot shall comply with the provisions of this Declaration, the Bylaws, Rules and Regulations duly adopted by the Association, decisions and resolutions of the Association and its duly authorized representatives, all as may be amended from time to time, and failure to comply with any such provisions, decisions or resolutions, shall be grounds for an action to recover sums due for damages or for injunctive relief.

3.02. Resolution of Conflicts Between Documents. Each Owner covenants and agrees that the administration of the Property shall be in accordance with the provisions of this Declaration, the Articles, the Bylaws and Rules and Regulations duly adopted by the Association. If there are any matters of conflict or inconsistencies in the Bylaws, Articles and this Declaration, then the provisions of this Declaration shall prevail. In the event that anything shown on a Map for all or any portion of the Property is in any way inconsistent with provisions of this Declaration, then the provisions of this Declaration shall prevail. If a dispute arises among Owners in regard to the administration of the Property, then the provisions of this Declaration shall prevail.

ARTICLE 4

PROPERTY RIGHTS

4.01. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area depicted on the Maps of the Property to the Association no later than the time of the conveyance of the first Lot within the applicable Phase of the Property, free and clear of all encumbrances and liens, except those set forth in this Declaration and utility and storm drainage easements. Following conveyance of Common Area to the Association, Declarant shall be entitled to a proration credit for all expenses of the Association incurred by Declarant (including insurance and real estate taxes) which have not theretofore been reimbursed to Declarant. The Common Area shall be conveyed without any express or implied warranties, which warranties are hereby expressly disclaimed by Declarant. Upon such conveyance, maintenance of the Common Area shall be the responsibility of the Association, including, but not limited to, the maintenance of any

stormwater facilities that are part of the Common Area. The maintenance of these stormwater facilities, including the expansion of such facilities as required by the County or otherwise, shall be performed to the standard required by the County or other applicable governing body. Title to the Common Areas, including, without limitation, all private streets, if any, shall be for the perpetual benefit of the Members, and private or public ownership for any purpose other than for the benefit of the Members is prohibited.

4.02. Common Area Easements. Each Owner shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area and of access to and from such Owner's Lot over any streets comprising a portion of the Common Area (if any), which rights and easements shall be appurtenant to and shall pass with the title to such Owner's Lot and subject to the following rights and restrictions:

(a) The right of the Association, after Notice and Opportunity for Hearing, to limit the number of guests of an Owner, to charge reasonable fees with respect to the use of Common Area facilities, if any, and to limit the use of said facilities to Owners who occupy a residence in the Property.

(b) The right of the Association to suspend the right of an Owner to use any Common Area facilities (i) for any period during which any fine against a Member or any assessment against such Owner's Lot remains unpaid, and (ii) after Notice and Opportunity for Hearing, for a period not to exceed thirty (30) days for any infraction of the Rules and Regulations;

(c) The right of the Association, subject to the provisions of the Act (Section 3-112), to encumber or convey all or any part of the Common Area, provided however that if a two-class voting structure is in effect such action shall require the written approval of FHA if at the time of such action FHA is the insurer or guarantor of any loan secured by a Mortgage.

(d) The right of the Association to grant easements, leases, licenses and concessions through or over the Common Areas.

(e) The right of the Association, subject to the provisions of the Act (Section 3-112), to borrow money to improve, repair, restore and reconstruct the Common Area and to place liens on the Common Area and otherwise encumber the Common Area for such purposes, provided however that if a two-class voting structure is in effect such action shall require the written approval of FHA if at the time of such action FHA is the insurer or guarantor of any loan secured by a Mortgage.

(f) The right of the Association to adopt Rules and Regulations governing use and enjoyment of the Common Area and the Property.

(g) The rights of the Association and of Declarant to the use of easements for ingress and egress over, in, to and throughout the Common Area.

(h) Public storm drainage easements, sanitary sewer easements, and any and all other easements over the Common Areas as shown on the Maps.

(i) The right of Declarant, its successors and assigns to make any improvements for any reason they deem proper upon the Common Areas, even after their conveyance to the Association. Declarant hereby reserves an easement over the Common Areas for the purpose of developing the remainder of the adjacent property owned by Declarant. Although not limiting the scope of this easement, this easement shall include the right of access at all times for its employees, agent, subcontractors, invitees, etc., over the Common Areas and shall include the right to construct, maintain and dedicate any additional drainage easements, general utility easements and any additional sanitary sewer or water line easements across any of the Common Areas. This easement shall terminate upon the completion of the development of the adjacent property owned by Declarant or ten (10) years from the date hereof, whichever first occurs.

4.03. Delegation. Any Owner may delegate his or her rights of use and enjoyment of the Common Area and any facilities thereon to the members of his or her family or household residing on his or her Lot and to his or her guests and invitees while in possession of his or her Lot, subject, however, to reasonable restrictions imposed by the provisions of this Declaration, the Bylaws and the Rules and Regulations. Provided the notice required by Section 4.04 of this Declaration has first been given to the Association, a tenant of an Owner, while residing on such Owner's Lot, shall be entitled to use and enjoy the Common Area and any facilities thereon and to delegate rights of use and enjoyment in the same manner as if such tenant were the Owner of such Lot. No such delegation shall release an Owner from his or her obligations hereunder, including, without limitation, the obligation to pay regular and special assessments.

Upon request, each Owner or tenant shall notify the Secretary of the Association of the names of all persons to whom such Owner or tenant has delegated any rights of use and enjoyment of the Common Area and the relationship that each such person bears to such Owner or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as the rights of Owners.

4.04. Tenants.

(a) Any Owner who rents or leases his or her Lot to a tenant shall not be entitled to use and enjoy any common facilities on the Common Area during the period the Lot is occupied by such tenant.

(b) No Owner shall lease or rent less than an entire Lot. Except with respect to construction trailers or model homes which may be used or occupied by Declarant, the Lots shall not be leased or rented for hotel or transient purposes and no rental agreement or lease shall be made for a period of less than one hundred eighty (180) days (unless a lease is executed for a shorter term in connection with the sale of a Lot by an Owner who is to temporarily occupy such Lot following the closing of the sale thereof). Subject to the foregoing restrictions, Owners shall have the right to lease or rent their Lots, provided that any lease or rental agreement between an Owner and a tenant shall be in writing and

shall provide that it is in all respects subject to the provisions of this Declaration, the Bylaws, and the Rules and Regulations and that any failure by the tenant to comply with such provisions shall be a default under the rental agreement or lease. However, the failure of any lease or rental agreement to so provide shall not excuse any person from complying with the provisions of this Declaration, the Bylaws, and the Rules and Regulations.

(c) In the event an Owner shall rent or lease his or her Lot such Owner shall immediately give to the Association in writing:

- (i) the name of the tenant and the Lot rented or leased;
- (ii) the current address of such Owner,
- (iii) a true and complete copy of the lease or rental agreement; and
- (iv) the certification of the Owner that the tenant has been given a copy of this Declaration, any applicable amendments, the Bylaws and the Rules and Regulations and that such tenant has been advised of any obligations he may have thereunder as a tenant

(d) In no event shall any lease or rental agreement release or relieve an Owner from the obligation to pay regular and special assessments to the Association, regardless of whether the obligation to pay assessments has been assumed by the tenant in such lease or rental agreement.

4.05. Reciprocal Easements. There shall be reciprocal appurtenant easements between each Lot and such portion or portions of the Common Area as may be adjacent thereto and between adjacent Lots for the flow of rainwater from gutters and downspouts and for the repair of fences and similar improvements; provided, however, that no such easement shall unreasonably interfere with the use and enjoyment of the Common Area or any adjacent Lot. If any Common Area or Lot improvement encroaches upon a Lot because of the placement, construction, reconstruction, repair, movement, settling or shifting of the improvements constructed by Declarant, or reconstructed or repaired in accordance with the provisions of this Declaration, an easement for the encroachment and for its maintenance shall exist to a distance of not more than one (1) foot as measured from any point on the common boundary between the Common Area and the Lot or between Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, that in no event shall such an easement exist for willful encroachments. If any Lot encroaches upon the Common Area as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Property, an easement for the encroachment and for its maintenance shall exist so long as it remains.

4.06. Utility Easements. Any easements for installation, maintenance, use or repair of public utilities or drainage or detention facilities which are dedicated on any Map of the Property, reserved under any deed of any Lot, or created by Declarant in some other way shall be

kept free of buildings, and within such easements no structure, fence, planting or other improvement shall be placed or permitted to remain which may damage or interfere with the installation, maintenance, use or repair of such public utilities or drainage or detention facilities, or which may damage, interfere, or change the direction or flow of drainage in the easements. Notwithstanding anything contained herein to the contrary, any such easement dedicated on any Map of the Property, reserved under any deed of any Lot, or created by Declarant in some other way shall be maintained by the Owner(s) of any affected Lot(s) to the extent so encumbered by said easement, including all storm drainage facilities located within any "P. S. D. E." (public storm drainage easement or other initials with similar meanings) shown on the Map, except as otherwise indicated by such Map or unless maintenance has been assumed by any public utility or governmental entity having jurisdiction thereover. All such easements at all times shall be accessible to Declarant until the Property is completed and at all times shall be accessible to all persons installing, repairing, using or maintaining such utilities and drainage facilities.

All utility lines of every type, including but not limited to water, electricity, gas, telephone, sewage and television cables, running from the main trunk line or service location to any Lot must be underground. The Declarant reserves unto itself, its successors and assigns, a perpetual alienable easement and right on, over and under the ground to erect, maintain and use water, irrigation, electric, gas, telephone, sewage and television cables, and any other utilities lines and conduits for the purpose of bringing public or other services, at this time known or unknown, to the Property on, in, under and over the private streets or roads and over any Lot, and over such areas as are so identified on any Map of the Property or shown on any site plan for the Property on file with and approved by the County. In addition, the Association may cut, in the above described easements, as well as any where else as required, at its own expense, drainways for surface water and/or to install underground storm drainage wherever and whenever such action is required by applicable health, sanitation or other state or local authorities, or in order to maintain reasonable standards of health, safety and appearance. In addition, along streets fronting property lines, Declarant reserves the right to install, maintain and repair pedestrian paths, street lights and/or street-side landscaping, which right shall automatically transfer to the Association upon the termination of Class B membership. Any easements first established on property not owned by the Declarant must be consented to by the Owner of such property and evidenced on the Map or in recorded instrument creating the easement.

The Declarant may, but shall not be required to, release any of the easements reserved herein as to any Lot for which it deems such easement is unnecessary for the efficient development and operation of the Property.

4.07. No Subdivision of Lots; No Time-Sharing. Other than that effected by Declarant in preparing and recording Maps, there shall be no further subdivision or partition of any Lot nor shall any Owner other than Declarant, or any other person acquiring any interest in a Lot seek any partition or subdivision thereof unless the Association consents to such subdivision or partition as evidenced on a Map. There shall be no time-sharing or other co-ownership which allows multiple Owners sequential possessory interests in a Lot.

4.08. Sale of Common Area. Except as otherwise provided in this Declaration, no sale, transfer, dedication, hypothecation, partition, subdivision, abandonment, release or alienation of

the Common Area shall, or may be, effected except as provided in the Act, provided further, however, that if a two-class voting structure is in effect written approval of FHA shall also be required if at the time of such action FHA is the insurer or guarantor of any loan secured by a Mortgage.

4.09. Limited Common Area. Certain portions of the Common Area may be designated as "Limited Common Area" and reserved for the exclusive use or primary benefit of Owners of designated Lots and their invitees. By way of illustration and not limitation, Limited Common Area may include entry features, recreational facilities, landscaped medians and cul-de-sacs, roadways not necessary to provide other Lots with access to public streets, lakes and other portions of the Common Areas designated to benefit particular Lots. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be an expense allocated to the Owners to which the Limited Common Area is assigned, which may be recovered by one or more special assessments levied by the Board equally against the benefited Owners. Any Limited Common Area shall be designated as such and the exclusive use thereof shall be assigned in the deed(s) by which the Declarant conveys the Common Area to the Association and shown on a Map designating such Limited Common Area; provided, any such assignment shall not be exclusive and shall not preclude the Declarant from later assigning use of the same Limited Common Area to additional Lots. The Association may, upon approval of the Owner(s) of the Lot(s) to which certain Limited Common Area is assigned, permit Owners of other Lots and their invitees to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the special assessments attributable to such Limited Common Area.

4.10. Right to Redesignate Common Area and Lots. The Declarant, until one (1) year after the termination of Class B membership, hereby reserves for itself and its successors and assigns the right to redesignate Common Area and Lots, the boundary lines of Common Area and Lots and the location of easements shown on any Map by recording a new Map showing such changes, which Map shall be executed by the Declarant and the Owner of the Common Area or Lot so redesignated.

4.11 Party Walls.

(a) General Rules of Law to Apply. Each wall which is built as part of the original construction of the townhomes upon the Lots and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of replacement, repair and maintenance of a party wall shall be shared equally by the Owners of the townhomes which share the wall, in proportion to such use.

(c) Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other causality, any Owner who has used the wall may

restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omission.

(d) Weatherproofing. Notwithstanding any other provision of this Section, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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

(f) Arbitration. In the event of any dispute arising concerning a party wall or under the provisions of this Section, the same shall be settled by arbitration in the manner provided under the Uniform Arbitration Act of North Carolina, as the same may be amended from time to time.

4.12. Rules and Regulations. The Association shall have the right to adopt, publish and enforce Rules and Regulations governing the Property, the use and enjoyment of the Common Area, and any facilities thereon, and the personal conduct thereon of the Owners, their guests, invitees, members of their families or households and tenants. Such Rules and Regulations shall be reasonable, shall not discriminate against Declarant (or have an adverse impact on Declarant or upon the sale of Lots or the construction of improvements thereon), and must be consistent with this Declaration, the Articles and the Bylaws. Rules and Regulations and any changes thereto shall not be effective until written notice thereof has been given by mailing a copy of the Rules and Regulations, postage prepaid, at least ten (10) days before the effective date of the Rules and Regulations, to each Owner addressed to the Owner's address last appearing in the books of the Association.

4.13. Enforcement. Unless otherwise limited by the terms and provisions of the Act, the Association shall be authorized to impose sanctions for violations of this Declaration, the Bylaws, or the Rules and Regulations. Sanctions may include reasonable monetary fines not to exceed \$150.00 per day and suspension of the right to vote and to use any facilities within the Common Area after Notice and Opportunity for Hearing. In addition, the Association, through the Board, after Notice and Opportunity for Hearing, shall have the right to exercise self-help to cure violations, and shall be entitled to suspend any services provided by the Association to any Owner or Lot in the event that such Owner is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. The Board shall have the power to seek relief in any court for violations of this Declaration, the Bylaws or the Rules and Regulations or to abate nuisances.

4.14. SWM/BMP Pond. The SWM/BMP Pond shown or to be shown on a Map of a portion of the Property is a part of the Common Area and is a wet detention pond to assist in

stormwater management. The wet detention pond has be designed to meet the Mecklenburg County in the town of Matthews Stormwater Management regulations and/or ordinances. The wet detention ponds shall be maintained by the Association. Declarant and Association makes no representations or warranties as to the condition of the wet detention pond or the level of water located therein.

4.16 Wetlands. Portions of the Common Elements have been designated as "Wetlands Preserve" by the Corps of Engineers and may be shown as Wetlands Preserve on the plats of portions of the Property. The areas designated as "Wetlands Preserve" must be maintained as Wetlands in compliance with any applicable laws, ordinances and regulations governing Wetlands until such time as changes to such laws, ordinances and regulations allow these areas to be maintained or developed in a condition or state other than as previously required of areas designated as "Wetlands".

4.17 Stormwater Detention Basin. That portion of the Common Elements designated "Detention Basin #1" or "Detention Basin #2" shall be developed and maintained pursuant to the engineering plans for the property described on Exhibit A-1, which is the entire 24.315 acre tract, including the Additional Real Estate, and subject to the requirements of the City of Charlotte, Mecklenburg County engineering departments or other governmental authorities.

ARTICLE 5 COMMON AREA EASEMENTS AND RIGHTS OF WAY, ENCUMBRANCES

5.01. Dedications. The Association shall have the power to grant easements in, on, over, through and across the Common Area for any public or quasi-public improvements or facilities and their appurtenances, including, without limitation, street, sewer, drainage, water, gas and sprinkler improvements and facilities, provided (a) any such easement does not unreasonably interfere with the use and enjoyment of the Common Area or any Lot, (b) the prior written consent of Declarant shall be obtained so long as Declarant owns any Lot, and (c) as long as there are two (2) classes of memberships in the Association, prior written approval of FHA shall be obtained if at the time of such action FHA is the insurer or guarantor of any loan secured by a Mortgage. Each Owner, by accepting a deed to a Lot, expressly grants to the Association an irrevocable power of attorney for the purpose of granting such easements in, on, over, through and across the Common Area. The President or other duly designated officer of the Association may execute, acknowledge and record in the official records of the County a certificate stating that the Board is the attorney in fact for the Owners for the purpose of such grant and that such power of attorney is properly exercisable in accordance with this Declaration. The acts of the Board in exercising its power of attorney shall be conclusively binding on all Owners. The power of attorney herein granted shall include authority to do such acts incidental to such grant and to incur such expenses as may be necessary or convenient in connection therewith. The Board, by resolution, shall instruct the appropriate officers of the Association to make, execute and deliver on behalf of any Owner, as his or her interest may appear, any and all instruments, certificates and documents, including but not limited to, releases, waivers, deeds, escrow instructions and conveyances of every kind and nature, as may be deemed necessary or convenient for such dedication or grant.

5.02. Easements in Private Streets, Private Water Lines and Private Sewer Lines. In its development of the Property, the Declarant may construct certain private streets, water lines and sewer lines within the Property. The Owners of those Lots adjacent to such private streets, private water lines and private sewer lines shall have an easement but no more than an easement for ingress and egress for themselves, their tenants, agents, employees, representatives, invitees and assigns over such private streets and an easement to utilize such private water lines and private sewer lines. In no case shall the City, County or the State of North Carolina be responsible for maintaining any private street, private water line or private sewer line. Such maintenance obligations shall be the responsibility of the Association.

5.03. Encumbrances. The Association shall have the right to borrow money to improve, repair, restore and reconstruct the Common Area and to place liens on the Common Area and otherwise encumber the Common Area for such purposes (a) if a two-class voting structure is in effect, upon the written consent of eighty percent (80%) of the Voting Power of each class of Members of the Association, or (b) if a two-class voting structure is not in effect, upon the written consent of eighty percent (80%) of the total Voting Power of the Association and the written consent of eighty percent (80%) of the Voting Power of the Association residing in Members other than Declarant or such lesser percentage as may be required or permitted by the Act. As long as there are two (2) classes of membership in the Association, any mortgaging of the Common Area shall require the approval of FHA if at the time of such action FHA is the insurer or guarantor of any loan secured by a Mortgage.

ARTICLE 6 COMMON AREA AND LOT MAINTENANCE

6.01. Maintenance by Association. The Association shall repair and maintain the Common Area and any improvements, utilities and facilities located on the Common Area. This responsibility shall also include, without limitation, maintenance, repair and replacement of all landscaping and grassed areas, fencing, private roadways, private alleyways and private streets, private utilities, retaining walls whether located on Common Areas or on Lots), signage, Common Area driveways and parking areas, sidewalks, walking paths or nature trails, lakes, ponds or streams, including retention ponds, swimming pools, cabanas and other recreational facilities, and other improvements or utilities situated on the Common Area. The Association may, but shall not be obligated to, provide enhanced landscaping and maintenance to those areas and medians located within the rights-of-way for streets located within the Property. Any maintenance or enhancement called for herein shall be subject to governmental authorities' rules and regulations in the County.

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces [with the exception of entry doors (including garage doors) and their appurtenant hardware and all exterior glass including windows and patio doors, all of which shall be maintained, repaired and replaced by the Lot Owner] trees, landscaping, grass, fencing, walks, driveways (as hereinafter limited) and other exterior improvements. Such maintenance as to the Lots shall also include the mowing and trimming of grass. Maintenance of the driveway constructed by the Declarant on each Lot

shall extend only to the exterior face of the garage door, beyond which such maintenance, repair and replacement shall be the responsibility of such Lot Owner. The Association shall maintain any portion of any sewer main to which such line is connected, provided that the Owner of each Lot shall be responsible for all repair, replacement and clean out of sewer lines and facilities located upon such Owner's Lot behind the clean-out to (and including the lines and facilities servicing) the townhome unit. Exterior maintenance required by the Association hereunder shall not include the cleaning of patios, walkways, stoops or driveways on the Lots, all of which shall be the responsibility of the Lot Owner. The determination of the need, quality, extent and cost of such maintenance and repairs shall be made by the Board of the Association, which determination shall be reasonable and made upon consistent and non-arbitrary principles adopted by the Board.

The Declarant is responsible for construction of streets and roads within the Property. The Association shall undertake the management, operation, maintenance, repair, servicing, replacement and renewal of all private streets and private utilities constituting Common Areas and all improvements thereon. The Declarant shall be responsible for and maintain all other streets and roads within the Property until such roads are accepted for maintenance by the applicable governmental authority. Following any irrevocable acceptance of the streets and roads for maintenance as public rights of way by applicable governmental entities, the Association shall maintain such streets and roads to the extent such activities are not performed by the applicable governmental entities. Maintenance for private streets, private water lines and private sewer lines shall be the responsibility of the Association along with the maintenance of any private easements.

6.02. Maintenance by Owners. Except as provided in Section 6.01, above, all repair, maintenance and replacement of the improvements and utilities located upon an Owner's Lot shall be the responsibility of the Owner thereof. Without limiting the generality of the foregoing, and subject to the requirements of Article 7, Section 13.06, and Article 10 of this Declaration, an Owner shall be responsible for replacement and reconstruction of improvements on his or her Lot required because of damage or destruction by fire or other casualty. Each Owner shall maintain, repair and replace, at his or her expense, all exterior light fixtures attached to the Owner's unit and all interior portions of the improvements which shall need repair, including bathroom and kitchen fixtures, light fixtures or other electrical or plumbing equipment, utility pipes, lines and fittings serving the Lot. Further, each Owner shall repair, maintain, and replace, at his or her expense, the heating and air conditioning systems servicing said Owner's unit, whether located on the Owner's Lot or in the Common Area adjacent to the Lot. Each Owner shall be responsible for interior pest control.

6.03. Negligence. The cost of repair or replacement of any improvement to be maintained and kept in repair by the Association, which repair or replacement is required because of the act or omission of any Owner, the Owner's family, guests, or invitees, shall be the obligation of such Owner and shall be added to and become a part of the assessment to which such Lot is subject.

6.04. Right to Enter. After reasonable notice to the occupant, the Association or its agents shall have access over and upon any Lot when necessary in connection with any repair,

maintenance, or replacement of improvements for which the Association is responsible or for the enforcement of this Declaration, and each Owner shall accept title to his or her Lot subject to such right of access of the Association or its agents.

6.05. Sign and Landscape Easement and Retaining Wall Easement. Declarant, for itself, its successors and assigns, including but not limited to the Association, hereby reserves easements over any portion of any Lot designated as "Landscape Easement," "Sign Easement," "Landscape and Sign Easement" "Landscape Buffer Easement", "Retaining Wall Easement" or other similar designation on Map(s) of the Property recorded in the public records of the County, for installation, construction, operation and maintenance of landscaping, berms, retaining walls, drainage facilities, private utilities, lighting and sprinkler systems, if any, monuments, fencing, signage and other improvements as installed by Declarant on such areas. No fences, structures, driveways, plantings, swings or any other objects, temporary or permanent, shall be permitted in such easements other than those initially installed by Declarant, or its designated successor, without Declarant's prior written approval or, after all Lots are occupied by Owners, the Association's prior written approval. The Association shall at all times have the right of access for its employees, agents and subcontractors over the above-described easement areas for the purpose of constructing, improving, landscaping, planting, mowing and otherwise maintaining the area and amenities within such easements. The owners of any Lot containing any portion of these easements shall maintain the area not maintained or landscaped by the Declarant or the Association. The reservation of this Easement imposes no obligation on Declarant, its successors and assigns, or the Association, to continue to maintain the planting, retaining walls, landscaping or other improvements located within the described easements.

ARTICLE 7 USE RESTRICTIONS

In addition to the architectural control restrictions set forth in Article 13 below, the following use restrictions apply to the Property:

7.01. Residential Use. Except as otherwise provided in this Declaration, Lots shall be used for residential purposes and for no other purpose. The Association shall not interfere with any Owner's freedom to determine the composition of his/her household, except that it may enforce reasonable occupancy limits. Except with respect to construction trailers or model homes which may be used or occupied by Declarant, no Owner shall use or cause or permit to be used his or her Lot for any business, commercial, manufacturing or mercantile use or purpose, or for any other nonresidential use or purpose. The foregoing notwithstanding, it shall be expressly permissible for Owners to conduct certain business or commercial activities within their residence which do not conflict with local zoning ordinance restrictions and regulations. No such activity shall be conducted which shall unduly burden traffic flows within the Property or cause the parking of non-resident vehicles upon the street for unreasonable or excessive periods of time. It shall be within the discretion of the Board to determine, on a case-by-case basis, which commercial and business related activities will be compatible with the residential nature of the subdivision.

7.02. Unlawful Activity. No unlawful activity shall be conducted on any Lot or in any other part of the Property. Nothing shall be done within the Property that is an unreasonable annoyance, inconvenience or nuisance to the residents of the Property, or that unreasonably interferes with the quiet enjoyment of occupants of Lots. No doorways, walkways or streets shall be obstructed in any manner which would interfere with their use for ingress or egress in the event of fire, earthquake or other emergency.

7.03. Property Owners Parking Rights. Unless otherwise permitted by the Rules and Regulations no boat, trailer, recreational vehicle, camper, camper truck or commercial vehicle shall be parked, stored or left (a) on any undesignated part of the Common Area, (b) in any parking space, (c) on any other part of a Lot, (d) or otherwise within the Property. This restriction shall not apply to sales trailers, construction trailers, or other vehicles which may be used by Declarant or a builder (provided that such builder obtains the prior written approval of Declarant) and their agents and contractors in the conduct of their business prior to the Completion of Sales. No vehicle of any type which is abandoned or inoperative shall be stored or kept on any part of the Common Area or on any Lot, and no automobiles or other mechanical equipment may be dismantled or parts thereof stored on any said Lot. No vehicles of any type shall be parked on the sidewalk, nor shall vehicles of any type be parked or stored on any part of a Lot not improved for that purpose (a garage, driveway or parking pad). No repairs to or maintenance of any automobile or other vehicle shall be made or performed on any driveway within the Property, except in the case of emergency and except as may be permitted by the Rules and Regulations.

Each Owner shall be entitled to park no more than two vehicles within the Property. An Owner shall not park any vehicle in any undesignated portion of the Common Area or on the street rights of way within the Property. The designated parking spaces on the streets within the Property are for the use of visitors of the Owners. Parking shall be provided in the designated parking areas only for cars, sport utility vehicles and small pickup trucks of Owners and their guests. All vehicular parking must be in designated parking spaces and must not obstruct or interfere with the ingress or egress of others. The parking spaces may not be reserved by individual Owners (except that the Association shall have the right to designate parking spaces for the use of Owners in general or Owners of particular Lots). Guest parking should only be temporary and infrequent so that available parking is not overburdened. It is extremely important that residents neither offer nor expect special parking privileges for guests. Owners and their guests are subject to sanctions, including towing, if parking guidelines are violated. Parking in any Common Area facility parking lot shall only be used by patrons of such facility during hours of operation of such facility.

7.04. Signs and Curtains. No Owner shall place on or about any window any metallic foil or other coating, substance or material which similarly acts as a reflector of light nor shall an Owner place newspapers or bed sheets in any window. No Owner shall display, hang, store or exhibit any signs outside of the dwelling on any Lot or in any dwelling so as to be visible from outside the Lot, other than as may be permitted by the Rules and Regulations. Notwithstanding the foregoing, one sign of customary and reasonable dimensions, conforming to such reasonable standard as may be adopted by the Board, advertising a Lot for sale or rent may be placed by the Owner on his or her Lot in such manner that it will be visible from outside the Lot. The

prohibitions in this Section shall not apply to Declarant or its agents, who may erect such signs as Declarant deems desirable to promote the sale of Lots.

7.05. Antennas

As provided in Article 13, except for such as are covered by, and installed in strict compliance with, the requirements of the Telecommunications Act of 1996, as amended, no Owner shall construct, install, erect or maintain any outside television or radio pole or receiving antenna, including a satellite dish antenna, and no outdoor television antenna or satellite dish may be erected or installed by an Owner or permitted by an Owner to remain on his or her Lot, without the express written approval of the Architectural Control Committee.

7.06. Laundry. No drying or airing of any clothing or bedding shall be permitted outdoors on any Lot and no clothes hanging devices such as lines, reels, poles, frames, etc. shall be stored or kept outdoors on any Lot.

7.07. Fences and Shrubbery. No fence or wall shall be erected upon any Lot unless plans therefore have been approved, in advance, by the Architectural Control Committee pursuant to the provisions of Article 13. In addition, no fence or wall shall be erected on any Lot closer to the street than the line formed by the exterior face of the rear wall of the dwelling, extended from the rear corners thereof to each of the side lot lines of the Lot, or the side street setback line of the Lot, as the case may be; except that, temporary decorative fencing may be installed by the builder of a model home and soil erosion silt fences may be permitted on the Property by the Association or the Declarant. Notwithstanding the foregoing, in the case of a dwelling having a side service entrance, fencing may be erected on the service entrance side of said Lot along a line three feet to the front of such entrance from the dwelling to the side Lot line (or side street setback, if applicable) and similarly placed on the opposite side of the dwelling. No fence or wall erected on any Lot may exceed (6) feet in height. Unless constructed of brick or stone masonry, no fence or wall shall have more than eighty percent (80%) of any of its surface closed as viewed from a point on a line of sight perpendicular to the line formed by the line of the fence. Chain link fencing is expressly prohibited. No hedge, shrubbery, or other planting, nor other plant screening shall be installed on any Lot except with the prior written permission of the Architectural Control Committee.

7.08. Pets.

(a) No animals shall be raised, bred or kept on any Lot or the Common Area, except that dogs, cats, or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. The number of household pets generally considered to be outdoor pets, such as dogs, cats, et cetera, shall not exceed three (3) in number except for newborn offspring of such household pets which are under nine (9) months of age. No animal shall be allowed if such animal constitutes an unreasonable annoyance, inconvenience or nuisance to any other Owner. If the Board receives any complaint that an animal constitutes an unreasonable annoyance, inconvenience or nuisance, including, but not limited to a complaint that an Owner's animal is being neglected, improperly treated, or not properly restrained upon such Owner's Lot, or if upon Common Area, not properly leashed, the Board shall afford the

Owner of such animal Notice and Opportunity for Hearing, and if the Board finds that such animal constitutes an unreasonable annoyance, inconvenience or nuisance, the Board may require that such animal be removed from the Property. Any time that an animal is outside, it must be on a leash and accompanied by the Owner, or some other person. Animals shall not be left unattended outside even when chained or contained inside a fence. At no time shall animals be allowed to be chained or tied in the Common Area. Each Owner shall also be responsible for cleaning up the feces of its animals both on its Lot and on the Property.

(b) The Board may adopt Rules and Regulations concerning animals which are more restrictive than the provisions of this Declaration, including (if not already mandated by applicable laws of the County) rules requiring that all animals be kept on a leash when in the Common Area and/or that animals be restricted to designated areas within the Common Area. The Board may adopt a rule prohibiting certain pets, which is more restrictive than the provisions of this Declaration, except that such rule shall not apply to animals residing in the Property at the time such rule is adopted. In any event, the Board at any time may require that any animal found to be an unreasonable annoyance, inconvenience or nuisance be removed as provided in Section 7.08(a).

7.09. Trash and Vegetation. No trash, rubbish, garbage or other waste material shall be kept or permitted upon any Lot or the Common Area, except in sanitary containers located in an appropriate area screened and concealed from view (except for the periods immediately preceding and subsequent to pick up by the applicable disposal service). No weeds, vegetation, rubbish, debris, garbage, waste materials or materials of any kind whatsoever shall be placed or permitted to accumulate on any Lot or any portion of the Property which would render it unsanitary, unsightly, offensive, or detrimental to any property in the vicinity thereof or to the occupants of any property in such vicinity, except as is temporary and incidental to the bona fide improvement of any portion of the Property. Job site debris shall be removed from all Lots at least bi-weekly. Grass, hedges, shrubs, vines and mass planting of any type on any Lot or any portion of the Property shall be watered at regular intervals. Trees, shrubs, vines and plants which die shall be promptly removed. No leaves, trash, garbage or other similar debris shall be burned except as permitted by the appropriate governmental authority.

7.10. Nuisance. No noxious or offensive activity shall be carried on in or upon any part of the Property nor shall anything be done thereon which may be or become an unreasonable annoyance, inconvenience or nuisance to the residents of the Property or unreasonably interfere with the quiet enjoyment of occupants of Lots. No Owner shall permit anything to be done or kept on his or her Lot which would result in the cancellation of insurance on said Lot or any other residence or any part of the Common Area or which would be in violation of any law.

7.11. Outbuildings, Gazebo, Trampolines, Flags, Awnings and Above-Ground Pools. Except as may be permitted by the Architectural Control Committee, no Owner shall construct, install, erect or maintain upon any Lot any outbuilding, storage shed, gazebo, trampoline, flag or awning. In no event shall any outbuilding, storage shed, gazebo, or trampoline be constructed on any Lot in the front or side yards, as determined by the building lines applicable to the Lot. No

above-ground pools shall be allowed or approved by the Architectural Control Committee on any Lot.

7.12. Temporary Structures. No temporary structures shall be placed upon any portion of the Property at any time; provided, however, this restriction shall not prohibit construction trailers or shelters or sheds used by Declarant or any builder or its contractors during the development of the Property or the construction of improvements or additions to any Lot. Tents, recreational vehicles, trailers (whether attached or unattached to the realty) may not, at any time, be used as a temporary or permanent residence or be permitted to remain on any portion of the Property.

7.13. ACC Approval of Plans and Other Prohibitions.

(a) The construction of improvements on Lots shall be completed pursuant to the Plans in accordance with Article 13. In addition, Lots shall comply with all applicable building, plumbing, electrical and other codes.

(b) All window treatments must be in keeping with the overall scheme and aesthetic of the Property. Any window treatments deemed not to be in keeping with the overall scheme and aesthetic of the Property shall be removed by the Owner in the discretion and at the direction of the ACC.

(c) No vents, pipes or other appendages may extend from the front of any dwelling on a Lot, unless screened from public view by screening material or shrubbery approved by the ACC.

(d) Any exterior air-conditioning or heating equipment added after the completion of construction must be approved by the ACC and be screened from public view by screening material or shrubbery approved by the ACC.

(e) Downspouts and gutters must be constructed so as not to promote the erosion of the soil of any Lot.

(f) Exterior lighting shall be shielded and must be directed so as not to shine directly on another Lot.

7.14. Trees and Foliage. Trees measuring two (2) inches or more in diameter at a point two (2) feet above ground level and any flowering trees or shrubs above three (3) feet in height may not be removed from the Property without the prior written approval of the ACC, unless such landscaping material is in the path of driveways and walkways located or to be located on any Lot. Excepted herefrom shall be damaged or diseased trees that threaten persons or property, which damaged or diseased trees shall be removed by the Owner.

7.15. Discharge of Firearms

Hunting and trapping of wild animals, fowl and game and the discharge of firearms and/or bows and arrows within the Property is prohibited.

7.16. Motorized Vehicles. All motorized vehicles operating within the Property must be properly muffled so as to eliminate noise which might be offensive to others. All motorized vehicles and motorized bicycles are prohibited from being used or operated anywhere other than on the streets, roads, parking lots and driveways within the Property.

7.17. Mail and Delivery Boxes. The ACC shall determine the standards and issue guidelines for the location, material, color and design for mail and newspaper boxes, if any, and the manner in which they shall be identified. All Owners must display the assigned street address on their mail boxes, or other appurtenance, pursuant to the then current regulations of the County or other appropriate governmental entity.

7.18. Underground Storage Tanks. No underground storage tanks for natural gas, propane, chemicals, petroleum products or any other toxic product will be allowed anywhere in the Property.

7.19. Declarant's Rights. Notwithstanding anything to the contrary contained in this Article or elsewhere in this Declaration, Declarant, its agents, employees and contractors shall not be restricted or prevented by this Declaration from doing, and Declarant, its agents, employees and contractors shall have the right to do such things or take such actions as they deem necessary, advisable or convenient for completion and improvement of the Property as a residential community and for the sale, rental or other disposition of Lots in the Property. The rights of Declarant, its agents, employees and contractors shall include, without limitation:

(a) The right and easement of ingress in, over and upon the Common Area and any Lot for the purpose of performing on any part or parts of the Property acts deemed necessary, advisable or convenient for the completion and improvement of the Property as a residential community and for the sale, rental or other disposition of Lots;

(b) The right to erect, construct, maintain, demolish or remove structures and other improvements on any Common Area as they deem necessary, advisable or convenient for the completion and improvement of the Property as a residential community and for the sale, rental or other disposition of Lots; and

(c) The right to use Lots and improvements owned by Declarant as models, sales offices and contractor's offices and to construct and display promotional, informational and directional signs and other sales aids on or about any portion of the Property.

The rights reserved under this Section shall terminate one (1) year after the Completion of Sales. Amendment of this Section shall require (a) if a two-class voting structure is in effect, the vote or written consent of seventy-five percent (75%) of the Voting Power of each class of Members of the Association and the written approval of FHA if at the time of such vote FHA is the insurer or guarantor of any loan secured by a Mortgage, or (b) if a two-class voting structure is not in effect, the vote or written consent of both seventy-five percent (75%) of the total Voting Power of the Association and of the total Voting Power of the Association residing in Members

other than Declarant. Further, no amendment of this Section can be made without the written approval of Declarant.

7.20. Right to Enter. Any governmental agency, including, but not limited to the County, its agents, and employees, shall have the right of immediate access to any Lot and to the Common Area at all times if necessary for the preservation of public health, safety and welfare.

ARTICLE 8 MEMBERSHIP AND VOTING RIGHTS

8.01. Governing Body. The Association shall be the governing body for all Owners with respect to the management, administration, maintenance, repair and replacement of the Property, as provided by this Declaration and the Bylaws.

8.02. Membership. Membership in the Association shall be composed of and limited to Owners. Each Owner, including Declarant, shall automatically be a Member of the Association and entitled to vote as set forth below. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Upon termination of ownership, an Owner's membership shall automatically terminate and be automatically transferred to the new Owner of the Lot.

8.03. Voting. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of Declarant; provided, however, that Declarant shall become a Class A Member when its Class B membership ceases as provided hereinafter. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an ownership interest in any Lot, all such persons shall be Members, but no more than one vote shall be cast with respect to any Lot. The vote for any such Lot shall be exercised as the Members holding an interest in such Lot determine among themselves. In the event of disagreement, the decision of Members holding a majority of interest in such Lot shall govern. Unless otherwise notified by a co-owner as to a dispute between the co-owners regarding their vote prior to the casting of that vote, the vote of any co-owner shall be conclusively presumed to be the majority vote of the Owners of that Lot.

Class B. Class B Member shall be Declarant which shall be entitled to three (3) votes for each Lot owned; provided that Declarant's Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (a) the conveyance by Declarant of seventy-five percent (75%) of all Lots in the Property to Owners other than a successor Declarant for use as a residence; or (b) ten (10) years after the first Lot is conveyed to an Owner for use as a residence.

8.04. Commencement of Voting Rights. Voting rights attributable to an ownership interest shall not vest until the assessment against that interest has been levied by the Association

as provided in Article 9; provided, however, that voting rights shall be immediately vested with respect to the approval of any amendments to this Declaration.

8.05. Declarant's Voting Rights. Declarant shall have the right to cast votes attributable to Lots owned by Declarant on all matters submitted to a vote of the Members.

8.06. Control by Declarant. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles, or in the Bylaws, Declarant hereby retains the right to appoint and remove any person, whether or not an Owner, on the Board of Directors of the Association and any officer or officers of the Association until ninety (90) days after the first of the events to transpire outlined in Section 8.03 above concerning the termination of the Class B Member status of Declarant or the surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant. This control by Declarant is referred to in the Bylaws as the "Class B Control Period." Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant if it then owns one or more Lots; and a special meeting of the Association shall be called for and held within ninety (90) days from the date of the expiration of Declarant's rights hereunder, as provided in Section 3.5(b) of the Bylaws. At such special meeting the Class A Members shall be entitled to elect two of the three Directors. The remaining one Director shall be an appointee of the Declarant, which shall undertake the responsibilities of running the Association and Declarant shall deliver the books, accounts, and records, if any, which they have kept on behalf of the Association as well as any agreements or contracts executed by or on behalf of the Association which may still be in effect or operation. Each Owner by acceptance of a deed to or other conveyance of a Lot vests in Declarant such authority to appoint and remove directors and officers of the Association as provided in this Section.

ARTICLE 9 COVENANTS FOR ASSESSMENTS

9.01. Covenant to Pay Assessments; Lien. Declarant, for each Lot owned by Declarant, hereby covenants to pay, and every Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay, to the Association such regular annual assessments or charges and such special assessments or charges as may be levied by the Association pursuant to the provisions of this Declaration. The amount of any such annual or special assessment plus any other charges thereon, such as interest, late charges and costs (including attorneys' fees), as such may be provided in this Declaration, shall be and become a lien upon the Lot assessed when the Association causes to be recorded in the official records of the County a notice of assessment, which notice shall state:

- (a) The amount of such assessment and such other charges thereon as may be authorized by this Declaration;
- (b) A description of the Lot against which the same has been assessed; and

(c) The name of the record owner of the Lot assessed.

Such notice shall be signed by an authorized representative of the Association. Upon payment of such assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the Association, at the Owner's cost and expense, shall cause to be recorded a further notice stating the satisfaction and the release of the lien thereof. The lien provided for herein shall be prior to all other liens recorded subsequent to the recordation of such notice of assessment. The lien may be enforced by foreclosure in accordance with North Carolina law, or in any other manner permitted by law. The Association shall have power to purchase the Lot at a foreclosure sale and to hold, lease, mortgage and convey the same.

9.02. Personal Obligation. Each regular annual or special assessment, together with any late charges, interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of each person or entity, other than any Mortgagee, who held an ownership interest in the Lot at the time such assessment was levied. If more than one Person held an ownership interest in the Lot at such time, the personal obligation to pay such assessment or installment respecting such Lot shall be both joint and several. No Owner may exempt himself or herself from payment of assessments, or installments, by waiver of the use or non-use of common facilities within the area or of any other portion of the Common Area or by abandonment or leasing of his or her Lot.

9.03. Use of Assessments. Regular annual or special assessments paid by Declarant and other Owners shall be used to pay for operation, maintenance, preservation, enhancement, repair and improvement of the Common Area and of the exterior of the dwellings and Lot improvements which the Association is required to maintain under Article 6, to make lease payments on all leased street lights located within public street rights-of-way within the Property, to pay premiums on all insurance maintained by the Association, and for other purposes reasonably related to the foregoing, and to promote the recreation, health, safety and welfare of the Owners. In addition, such assessments shall be used to pay the cost of administration of the affairs of the Association, including payment of applicable taxes, and for the preservation of the Association's existence, to the extent properly allocable to the performance and exercise of the Association's duties and powers under this Declaration. The foregoing is intended as an authorization of the Association and shall not be construed to require expenditure of Association funds for any particular purpose.

9.04. Reserve Funds. The Board shall establish and maintain reserves in accordance with standard accounting practices and procedures for Common Area replacements and maintenance, maintenance and replacement of the exterior of the dwellings and Lot improvements which the Association is required to maintain under Article 6, and the initial budget of the Association. Each budget subsequently adopted by the Board shall provide for funds to be placed in reserves in at least the amount of reserves established in the initial budget unless a lower level of reserves is approved by the vote or written consent of a majority of the Voting Power of (a) if a two-class voting structure is in effect, by the vote or written consent of a majority of the Voting Power of each class of Members or (b) if a two-class voting structure is not in effect, by the vote or written consent of a majority of the total Voting Power of the

Association. Funds deposited in reserve for a particular purpose shall be held for that purpose and shall not be expended for any other purpose without (i) if a two-class voting structure is in effect, the vote or written consent of a majority of the Voting Power of each class of Members, or (ii) if a two-class voting structure is not in effect, the vote or written consent of a majority of the total Voting Power of the Association, except that if the Board determines that funds held in reserve for a particular purpose exceed an amount reasonably required as a prudent reserve for that purpose, then, without the vote or written consent of Members, the excess may be allocated to any other reserve fund established by the initial budget of the Association and expended for the purpose for which such other reserve fund has been established.

9.05. Regular Assessments.

(a) The regular annual assessment for each Lot (which will be paid monthly) for the first assessment year (remainder of 2006) and for the following year of 2007 shall be as follows: The monthly assessment for Lots with an Ascot type townhome shall be \$156.00 per month; the monthly assessment for Lots with a Belmont type townhome shall be \$168.00 per month; the monthly assessment for Lots with a Belmont Villa type townhome shall be \$180.00 per month; the monthly assessment for Lots with an Edinburgh type townhome shall be \$190.00 per month; and the monthly assessment for Lots with an Edinburgh II type townhome shall be \$209.00 per month. An Ascot type townhome contains two bedrooms and two baths; a Belmont type townhome contains three bedrooms and two baths; a Belmont Villa type townhome contains three bedrooms and two baths in a duplex type building; an Edinburgh type townhome contains two bedrooms with den and two baths; and an Edinburgh II type townhome contains two bedrooms with den, patio and two baths. In the event, Declarant elects to build other type townhomes on portions of the Additional Land, assessments for Lots containing such other type townhomes shall be set forth in the Supplemental Declaration annexing the portion of the Additional Land containing such other type townhomes. In the event, Declarant elects to pay assessments for Lots owned by Declarant or other Class B members in lieu of funding any operating budget deficits as set forth in Section 9.12, the amount of assessments for Lots owned by Class B members shall be based on the assessment ratio set forth hereinbelow. The Board shall adopt a proposed budget and fix the amount of the regular annual assessment as to the type of townhome located on each Lot for each subsequent calendar year at least thirty (30) days prior to January 1 of such calendar year. The ratio of the assessment established for Lots owned by Class A Members to the assessment established for Lots owned by Class B Members shall be three (3) to one (1). The Association shall send written notice of the amount of the regular annual assessment and a summary of the proposed budget, as well as the amount of the payment due, to each Owner within thirty (30) days after the adoption by the Board of such budget. 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 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 subsection (b) below, the budget is ratified unless at such meeting Members exercising all of the Voting Power in the Association reject the budget. If the proposed budget to be voted on at any such meeting exceeds the maximum increase limits set forth in subsection (b) below, the budget is ratified unless at such meeting Members exercising a majority of the Voting Power 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.

(b) For years following the year in which the initial conveyance of all or a part of the Common Area occurs and thereafter, the Board, 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 subsection (a) above shall apply), may increase the regular annual assessment each year by a maximum amount equal to the previous year's regular annual assessment times the greater of (i) ten percent (10%) or (ii) the annual percentage increase in the CPI 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.

(c) From and after the first year of regular annual assessments, the maximum annual assessment may be increased above the maximum amount set forth above by a vote of a majority of the Voting Power, plus the written consent of Declarant (so long as Declarant owns any part of the Property).

(d) The Board may fix the regular annual assessment at an amount not in excess of the maximum set forth above (the "Maximum Annual Assessment"), subject to the procedures set forth in subsection (a) above if applicable. If the Board 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 subsection (a) above, if applicable. In no event shall the sum of the regular annual and Supplemental Annual Assessments for any year exceed the applicable Maximum Annual Assessment for such year other than as set forth herein.

9.06. Special Assessments. In addition to the regular annual assessments authorized herein, the Board may levy, in any assessment year, a special assessment against all Owners applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of capital improvements and related fixtures and personal property on or comprising a part of the Common Area or in connection with the exterior maintenance of improvements constructed on Lots; provided, however, any such assessment shall be in the ratio of three (3) to one (1) for Lots owned by Class A Members and Class B Members, respectively, as provided in Section 9.05 above, and further provided in any

fiscal year, special assessments which exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year may not be levied without (a) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members of the Association or (b) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of both the Voting Power of the Association and the Voting Power of the Association residing in Members other than Declarant.

9.07. Assessment as Remedy. After Notice and Opportunity for Hearing, the Board, without the vote or written consent of Members, may levy a special assessment against an Owner as a remedy to reimburse the Association for costs (including attorneys' fees) incurred in bringing the Owner, his or her Lot or his or her residence into compliance with the provisions of this Declaration, the Bylaws or the Rules and Regulations.

9.08. Allocation of Assessments. All regular and special assessments shall be levied equally against all Owners, except:

- (a) regular assessments shall be levied on Lots depending on the type of townhome located on a Lot as set forth in Section 9.05;
- (b) the ratio of the regular assessment established for Lots owned by Class A Members to the assessment established for Lots owned by Class B Members for all subsequent years shall be three (3) to one (1)(this subSection (b) shall only be applicable upon the decision by Declarant to pay regular assessments for Lots it owns pursuant to Section 9.12); and
- (c) special assessments shall be in the ratio of three (3) to one (1) for Lots owned by Class A Members and Class B Members, respectively.

9.09. Commencement of Assessments. The regular annual assessments provided for herein shall commence as to a Lot on the date of closing of such Lot improved with a dwelling to a purchaser (other than a successor Declarant) for use as a residence. The first assessment year shall be the period commencing on the date regular annual assessments commence and ending on the December 31 next following. The regular annual assessments for the first assessment year shall be prorated from the amounts fixed by the Board for a full twelve-month year, based on the number of months to be contained in the first assessment year. Subsequent assessment years shall be each successive calendar year; provided, however, that at any time the Board may change the assessment year to correspond to a fiscal year selected by the Board. Assessments of Lots within each Phase of the Property which is annexed in accordance with the provisions of Article 15 below shall commence as to a Lot on the date of closing of such Lot improved with a dwelling to a purchaser (other than a successor Declarant) for use as a residence.

9.10. Revised Assessments. Subject to the provisions of Section 9.05, if at any time during the course of any year the Board shall deem the amount of the regular annual assessment to be inadequate or over adequate by reason of a revision of its estimate of either expenses or income or otherwise, the Board shall have the right, at a regular or special meeting, to revise the regular annual assessment for each type townhome the balance of the assessment year. Any such

revised assessment shall become effective on the first day of the month next following the date of adoption, and additional amounts payable shall be due (or refunds of overages shall be made by the Association) at such time as determined by the Board.

9.11. Delinquent Assessments; Fines. Any assessment not paid within ten (10) days after the due date shall be delinquent. The Board may require that any delinquent assessment bear a late charge to cover administrative expenses incurred as a result of the late payment of the assessment. Late charges on delinquent assessments and fines levied as provided in Section 4.13 may be imposed in an amount not to exceed \$150.00 per day (or such greater amount as may be permitted by the Act) for each day that the violation continues. The Association may bring a legal action against the Owner personally obligated to pay a delinquent assessment or fine and, after Notice and Opportunity for Hearing, the Association may suspend a delinquent Owner's membership rights in the Association while the assessment or fine remains unpaid. In any legal action to enforce payment of an assessment or fine, the Association shall be entitled to recover interest, costs and reasonable attorneys' fees.

9.12. Declarant to Fund Operating Budget Deficits. To the extent permitted by North Carolina law, in lieu of paying assessments for Lots owned by Declarant, Declarant shall fund any operating budget deficit. The budget deficit is the difference between the amount of regular assessments levied on Class A Member-owned Lots, plus any other income received during the calendar year, and the amount of the Association's actual expenditures during the calendar year, excluding reserve contributions. Notwithstanding the foregoing, Declarant may elect to pay regular assessments for Lots owned by Declarant at the ratio established in Section 9.08(b) in lieu of paying any operating budget deficit.

In the event Declarant elects to pay assessments in the same manner as any other Owner as described in Section 9.08, and a deficit results, the Association, and not Declarant, shall be responsible for such deficit and its funding.

Regardless of Declarant's election, Declarant's assessment obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of Declarant control described in Section 8.06, Declarant shall pay assessments on Lots which it owns in the same manner as any other Owner as described in Section 9.08.

If Declarant elects to fund the budget deficit, such obligation, together with interest thereon and costs of collections, including, but not limited to, reasonable attorneys' fees, are hereby declared to be a charge and continuing lien upon each Lot owned by Declarant. Said lien shall be effective only from and after the time of the recordation in the official records of the County of a notice of assessment in accordance with Section 9.1. Upon full payment of all sums secured by any such lien, Declarant shall be entitled to a satisfaction of the notice of assessment in recordable form in accordance with Section 9.1.

9.13 Capitalization of Association (Working Capital). Upon acquisition of record title to a Unit, each Owner shall contribute to the working capital of the Association an amount equal to one-sixth (1/6th) of the amount of the annual assessment for that Lot as determined by the

Board. This amount shall be paid by the buyer at closing of the purchase of the Lot; shall be disbursed to the Association; shall not be considered as advance payments or regular assessments; and shall not be refunded to a Owner upon the subsequent resale of a Lot. These funds shall not be used by Declarant to defray any of its construction or development expenses. These funds may be used by the Association for common expenses of the Association and for the purpose of purchasing common area furnishings, equipment and supplies and other approved Association expenditures, and for the purpose of reimbursing Declarant for the cost of the initial furnishings, fixtures and exercise equipment located in and around the Clubhouse and Pool

9.14. Exempt Property. The following property subject to this Declaration shall be exempt from all assessments, charges and liens created herein:

- (a) all Common Area as defined in Section 1.09 of this Declaration;
- (b) all Limited Common Area as defined in Section 4.09 of this Declaration; and
- (c) all properties exempt from taxation by the laws of the State of North Carolina upon the terms and to the extent of such legal exemption (provided homestead exemptions, if any, shall not be considered an exemption).

Notwithstanding any provisions of this Section 9.14, no Lot shall be exempt from the assessments, charges or liens created herein.

ARTICLE 10 INSURANCE AND RECONSTRUCTION

10.01 Association Insurance. The Association shall procure and maintain, or cause to be maintained, insurance in accordance with the following provisions.

(a) Property Insurance. The Association shall obtain and maintain at all times a policy or policies of property insurance (ISO special form or its equivalent) covering all buildings and improvements located on the Property, including all Lots and all improvements located in the Common Area, in an amount not less than one hundred percent (100%) of the replacement cost of such improvements at the time such insurance is purchased and at the time of each renewal thereof, exclusive of the costs of excavation, paving, foundations and footings, with a commercially reasonable deductible not in excess of \$10,000.00. Each policy shall show the Association as the named insured, but shall provide that each Owner is an insured person with respect to his Lot and the Association is an insured person with respect to the Common Area, shall contain clauses providing for waiver of subrogation against any Owner, and any Owner's employees or agents, shall provide that it may not be cancelled or substantially modified without at least thirty (30) days prior written notice to the Association and all insureds, including all Owners and all Mortgagees; shall provide that no act or omission by any Owner will preclude recovery upon such policy; and shall provide that if, at the time of a loss under the policy, there is other insurance in the name of the Owner covering the same risk covered by the policy, the Association's policy shall provide primary insurance. Each policy shall contain an inflation guard endorsement and a construction code endorsement, if available. Each policy shall

provide that adjustment of loss shall be made by the Association as insurance trustee, and shall provide for the issuance of certificates or mortgagee endorsements to all Mortgagees.

(b) Limited Insurance. The Association shall obtain and maintain a policy of commercial general liability insurance in such limits as the Association may, from time to time, determine, covering each member of the Board, the property manager, if any, and each Owner with respect to liability arising out of the use, ownership, maintenance, or repair of the Common Area, provided, however, that in no event shall the limits of such policy ever be less than \$1,000,000.00 per occurrence. The liability insurance policy 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, and shall provide that it may not be cancelled or substantially modified without at least thirty (30) days' prior written notice of the Association and to all insureds, including all Owners and all Mortgagees. The Association shall review such limits annually.

(c) Fidelity Insurance. The Association shall procure and maintain, or cause to be maintained, a policy or policies of insurance coverage to protect against dishonest acts on the part of officers, directors, volunteers, managers and employees of the Association and any other persons who handle or are responsible for the handling of funds of the Association. Any such fidelity insurance policy must name the Association as the named insured and shall be written in an amount as may be determined by the Association, but in no event less than one-half the annual budgeted amount of annual assessments, or the amount required by any Mortgagee, whichever is greater.

(d) Other Insurance. The Board, or its duly authorized agent, shall have the authority to and shall obtain and maintain in effect such other insurance coverages as may be required by any Agency (as same may be amended or modified from time to time) and such other insurance coverages as the Board shall determine from time to time to be desirable, specifically including, without limitation, directors and officers liability insurance, performance bonds, payment on labor and material bonds and maintenance bonds. In addition, the Association shall maintain flood insurance on any Lot located within a "special flood hazard area," as designated on a Flood Insurance Rate Map published by the Federal Emergency Management Association, or if otherwise by any Agency.

10.02 Premiums. Premiums upon insurance policies purchased by the Association, and any amounts paid as a result of a deductible, shall be paid by the Association and charged as an expense of the Association for all purposes. All such premiums shall be paid by the Association at least thirty (30) days prior to the expiration date of such policies.

10.03 General Standards. All insurance policies maintained by the Association under this Article 10 shall be written with a company or companies licensed to do business in the State of North Carolina and holding a rating of A or better in Best's Insurance Guide, provided that such insurance is available from a company with at least such a rating and that, in the event not so available, such insurance is obtained from a company with the highest rating available in Best's Insurance Guide. Upon request, duplicate originals of all such policies shall be furnished in to all Owners and Mortgagees, provided that in lieu of such duplicate original policies the

Association may deliver certificates to the Owners and the Mortgagees attesting the fact that such policies and such insurance are in force and effect. Upon request, the Association shall furnish to any Owners or Mortgagees evidence that the premiums for the required insurance have been paid annually.

10.04 Owners' Insurance. Each Owner shall obtain and keep continuously in force additional fire and casualty and extended coverage insurance upon his personal property, public liability insurance, and such other insurance coverage as he may desire. Each Owner shall obtain and maintain public liability insurance coverage in the amount of at least \$100,00.00 for bodily injury, including deaths of persons and property damage, arising out of a single occurrence. Upon request, any Owner shall file a copy of his individual insurance policy with the Association within thirty (30) days.

10.5 Distribution of Insurance Proceeds. All policies of property insurance procured by the Association shall provide that all losses shall be adjusted with, and all proceeds shall be payable to, the Association as insurance trustee. The Association shall have exclusive authority to negotiate any and all losses under such insurance policies, and the Association is hereby irrevocably appointed as agent and attorney-in-fact for each Owner to adjust all claims arising under such policies and to execute and deliver releases upon the payment of claims. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes set forth herein and for the benefit of the Owners and their Mortgagees in the following shares:

- (a) Proceeds on account of damage to any improvements in the Common Area shall be held by the Association and applied in the manner provided in Section 10.06.
- (b) Proceeds on account of damage to Lots shall be held in undivided shares for the Owners of damaged Lots in proportion to the cost of repairing the damage to each such Owner's Lot, which cost shall be determined by the Association.
- (c) In the event a mortgagee endorsement or certificate has been issued with respect to a Lot, the share of that Owner shall be held in trust for the Owner and its Mortgagee, as their respective interests may appear.
- (d) Proceeds of insurance policies received by the Association as insurance trustee shall be distributed to or for the benefit of the Owners in the manner provided in Section 10.06

10.06 Responsibility for Reconstruction or Repair. If any portion of the Property is damaged by perils covered by the property insurance maintained by the Association in accordance with Section 10.01(a), the Association shall cause such damaged portion to be promptly reconstructed or repaired with the proceeds of insurance available for that purpose, if any, and any such reconstruction or repair shall be substantially in accordance with the plans and specifications for the original development of the Property. If, however, such damage renders two-thirds (2/3) or more of the then-existing Lots on the Property uninhabitable, the Association may, upon the affirmable vote of seventy-five percent (75%) of the votes of the Members and upon the written approval of the holders of seventy-five percent (75%) of the

Mortgages then in force with respect to the Lots, elect not to reconstruct or repair such damaged Lots. A meeting shall be called within ninety (90) days after the occurrence of such casualty rendering more than two-thirds (2/3) of the Lots uninhabitable, or, if by such date the property insurance loss has not been finally adjusted, then within thirty (30) days after such final adjustment. Upon any such election, the insurance proceeds attributable to such damage shall be promptly distributed to the Owners whose Lots were damaged, or to their Mortgagees in accordance with the terms of the Mortgage covering that Lot, in proportion to the reasonable cost of repairing damage to such Lot; provided, however, that no Owner shall receive any portion of his share of such proceeds until all liens and encumbrances on his Lot have been paid, released or discharged and any debris resulting from such damage or destruction has been removed from the Property.

If: (a) the proceeds of insurance are not sufficient to repair damage or destruction of any part of the Property by fire, or other casualty, or (b) the damage or destruction is caused by any casualty not insured against, or (c) insurance proceeds are not available for repair or reconstruction by reason of the application of deductible clauses of applicable policies, then the repair or reconstruction of any damaged improvements within the Common Area shall be accomplished promptly by the Association and the extent of such repairs shall be an expense of the Association; and the repair or reconstruction of any improvements contained within any Lot shall be accomplished promptly by the Owner of the affected Lot at his expense. If the Owner of the affected Lot fails to promptly accomplish such repair or reconstruction, the Association may perform such repairs or reconstruction on his behalf. The expense of such performance may be assessed against that Lot, and if not paid shall be a lien on the Lot having all of the priorities provided for in this Declaration.

10.07 Procedure for Reconstruction or Repair. In the event of a casualty causing damage to any portion of the Property, the following provisions shall govern and apply:

(a) Immediately after a casualty which causes damage to any portion of the Property, the Association shall obtain, or cause the affected Owners to obtain, reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board deems necessary.

(b) If the proceeds of the casualty insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association (including the professional fees and premiums, if any), one or more special assessments shall be made against all Owners of the affected Lots (with respect to any deficiency in insurance proceeds for damage or destruction to Lots or other improvements on Lots) or all Owners (with respect to any deficiency in insurance proceeds for damage or destruction to the Common Area or the improvements thereon) in sufficient amounts to provide funds for the payment of such costs, and the proceeds of such special assessments shall be deposited with the Association; provided, however, that the Association may borrow funds to pay for such costs with the assent of two-thirds (2/3) of the members of the Association voting at a meeting duly called for such purpose.

(c) The proceeds of the property insurance referred to in Section 10.01(a) and the sums deposited with the Association from collections of special assessments proceeds of authorized loans, as provided in Section 10.7(b), shall constitute a construction fund which shall be held by the Association and applied to the payment of the costs of reconstruction and repair of the Property from time to time as the work progresses, but not more frequently than once in any calendar month. The Association shall make such payments upon a certificate dated not more than fifteen (15) days prior to such request, signed by an architect in charge of the work who shall be selected by the Association, certifying that the sum then requested is justly due to contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and certifying that the sum requested does not exceed the value of the services and materials described in the certificate. It shall be presumed that the first monies disbursed in payment of such cost of reconstruction and repair shall be from insurance proceeds, and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be disbursed to the Association which may use such excess funds for any purpose not in violation of this Declaration in the sole discretion of the Board.

ARTICLE 11

INTENTIONALLY OMITTED

ARTICLE 12

EMINENT DOMAIN

12.01. Eminent Domain. Notwithstanding any provision contained herein to the contrary, in the event of a taking of all or any portion of a Lot or all any portion of the Common Area by eminent domain, or by conveyance in lieu thereof, the awards paid on account thereof shall be applied in accordance with Section 47F-1-107 of the Act. If all or any portion of the Common Area is taken by action in eminent domain (hereinafter called a "taking"), the Association shall give written notice of the proceedings to all Owners and Mortgagees, and the condemnation award shall be fairly and equitably apportioned among the Owners, Mortgagees and the Association as provided in the Act.

12.02. Repair, Restoration, Reconstruction. If only a portion of a Common Area facility is taken, the Board shall promptly contract for the repair, restoration or reconstruction of the Common Area facility to a complete architectural unit, to the extent such repair, restoration and reconstruction is reasonably necessary and practical. If the cost of repair, restoration and reconstruction of the Common Area exceeds the amount awarded by the court for such purposes, the difference may be recovered by a special assessment levied equally against all Owners.

ARTICLE 13

ARCHITECTURAL CONTROL

13.01. Architectural Control. No building, spa, statuary, flag pole, mailbox, basketball goal or other sports equipment (permanent or portable), fence, wall, gazebo, or any other

structure or improvement shall be placed, erected, commenced, constructed, demolished, rebuilt or altered upon any Lot or attached or affixed to any improvement upon any Lot or upon the Common Area nor shall any exterior addition to or change or alteration of a residence building be made, including, but not limited to, additions or alterations to any deck, fence, wall, driveway, or patio, plating or clearing and cutting of trees, color or painting of the exterior (other than maintenance to and touch-up painting to preserve the original exterior paint) or change of the type of exterior finish, the installation of aerials, satellite dishes, flags or awnings or the addition of any exterior attachment (such as a storm door) until an application, including plans and specifications showing the nature, kind, shape, height, materials, finishes, colors and location of the same (including floor plans and elevations) (the "Plans"), shall have been submitted in triplicate to and approved in writing by the Architectural Control Committee; provided, however, that no such approval shall be required for alterations solely to the interior of any residential structure. The Board may require a reasonable fee to accompany each application for approval. Absent such approval, the proposed alteration or improvement may not be commenced. THE RESTRICTIONS HEREIN CONTAINED SHALL HAVE NO APPLICATION TO THE DEVELOPMENT, IMPROVEMENT, MAINTENANCE AND REPAIR OF THE PROPERTY BY DECLARANT OR BY THE ASSOCIATION, AND NEITHER THE BOARD NOR THE ARCHITECTURAL CONTROL COMMITTEE SHALL HAVE ANY POWER OR AUTHORITY TO REVIEW OR REQUIRE MODIFICATIONS TO THE PLANS FOR CONSTRUCTION OR INSTALLATION OF IMPROVEMENTS BY DECLARANT.

The installation of antennae and of satellite dishes or disks shall be permitted on a Lot if accomplished in strict compliance with the limitations and conditions imposed by the Telecommunications Act of 1996, as amended from time to time, but no antenna or disk which is in any dimension larger than prescribed by the Telecommunications Act of 1996 or which is not installed in accordance with the advance notice requirements and location guidelines of the Telecommunications Act of 1996 may be installed or maintained on any Lot except with the prior written approval of the Architectural Control Committee.

13.02. Architectural Control Committee.

(a) Membership; Right of Declarant to Act as ACC with Respect to Initial Construction.

(i) The Architectural Control Committee shall be composed of three (3) persons (who need not be Members of the Association) appointed by the Board. A majority of the Architectural Control Committee may designate a representative to act for it. In the event of death, resignation, or removal by the Board of any member of the ACC, the Board shall have full authority to designate a successor. Unless otherwise approved by the Association, neither the members of the ACC nor its designated representative shall be entitled to any compensation for services performed pursuant to this Section. The Association shall keep, or cause to be kept, a list of the names and addresses of the persons who form the ACC and a list of the names and addresses of any designated representatives of the ACC, and such a list shall be available in the principal office of the Association to any Owner upon request.

(ii) Notwithstanding the foregoing, as to the initial construction of improvements on any Lot (the "Initial Construction of Improvements"), the Declarant shall serve as the Architectural Control Committee responsible for the review, approval, and monitoring of construction of improvements. Any requests for modifications or alterations of improvements in fact constructed on a Lot or for the construction of additional improvements on a Lot shall be the responsibility of the Architectural Control Committee, which need not be the Declarant if it so directs, but, if not the Declarant, Declarant shall have the right to approve or disapprove any decisions made by the ACC upon fifteen (15) days written notice to the ACC and the applicable Owner following the thirty (30) day period for the Architectural Control Committee's decision. The rights of the Declarant pursuant to this section shall cease upon the expiration of Class B membership. Prior to the expiration of Class B membership, the Declarant may at any time relinquish, either temporarily or permanently, its rights to review, approve and monitor the Initial Construction of Improvements.

(b) Procedure. At least sixty (60) days prior to the commencement of any construction on a Lot, the Plans for such Lot shall be submitted to the ACC. Approval shall be subject to such regulations and architectural standards as may from time to time be promulgated by the ACC. Within thirty (30) days after receipt of the Plans and any other requested information, the Architectural Control Committee shall notify the Owner of the Lot in writing as to whether the Plans have been approved. Unless a response is given by the ACC within thirty (30) days from receipt of all required information, the Plans shall be deemed approved. The response of the Architectural Control Committee may be an approval, a denial, an approval with conditions or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was inadequate, and the thirty (30) day time period for further ACC response shall only commence upon receipt of the requested additional information. No construction shall be commenced until either the fifteen (15) day time period for Declarant's approval has passed or Owner has received Declarant's approval if the ACC is not the Declarant and Declarant still has the rights as outlined in 13.02(a)(ii) above. If an approval with conditions is granted and construction then begins, the conditions shall be deemed accepted by the Owner of the Lot, and the conditions imposed shall become a part of the approved Plans. No improvements shall be constructed except in strict conformity with the approved Plans. The ACC shall have the right to monitor construction of improvements and investigate compliance with the approved Plans and is hereby granted the right to enter upon any Lot in order to do so.

Any Owner who submits Plans to the ACC and disagrees with the finding of the ACC may appeal the decision to the Board by giving written notice of appeal to the President of the Association within fifteen (15) days following its receipt of notice of denial. The Board shall review the Plans and hold a meeting to hear the case with the Owner and the ACC or its representative. At such meeting the ACC or its representative shall present to the Board specific reasons why the Plans were denied, and the Owner or his agent may present information challenging the findings of the ACC. The decision of the ACC shall only be overridden by a majority vote of the Board. Notwithstanding the foregoing, an Owner shall have no right to appeal decisions by the Declarant acting as the ACC with respect to the Initial Construction of Improvements or to approvals by the ACC which are disapproved by the Declarant pursuant to Section 13.02(a)(ii).

The Association may adopt a schedule of reasonable fees for processing requests for approval. Such fees will be payable to the Association at the time that the Plans and related documents are submitted to the ACC. The ACC shall have the right, exercisable in its sole discretion, to procure the services of a consultant of its own choosing for purposes of assisting the ACC in its review of any Plans, and the cost of such consulting service(s) shall be the responsibility of the respective applicant or Owner of the subject Lot and shall be in addition to any fees due for processing any requests for approval.

All notices required to be given under this Section 13.03(b) shall be given in writing and delivered by hand, mailed with prepaid postage or deposited with an overnight carrier (e.g. Federal Express, UPS, etc.). If the ACC denies an application, the ACC shall specify the particular grounds upon which denial of such application is based. If the ACC approves the application, one set of Plans, marked approved (or approved with specified conditions), shall be retained by the ACC, and the remaining two sets of Plans shall be returned to the applicant.

13.03. Landscape Plan: Landscaping. As part of the Plans package submitted by an Owner to the ACC for approval of the Initial Construction of Improvements or any improvements thereafter, there shall be included a comprehensive landscape plan (the "Landscape Plan"). Shown thereon, in addition to the scheme for decorative plantings, shall be all of the planned site improvements and modifications, including, but not limited to, major topographic changes and plans for revegetation and stabilization thereof, the specifications for all terraces, walkways, driveways, paths, fences, bulkheading, walls, pools, outdoor lighting and for other fixtures and structures to be constructed as part of the Landscape Plan.

The Landscape Plan shall unite the Lot as well as all other structural aspects of the landscape with its setting and shall provide for the introduction of plant materials of reasonable size and quantity to create (when first installed) a mature landscape scene.

Each Lot shall be maintained consistently with the Landscape Plan approved for it by the ACC. All material changes to the Landscape Plan or the landscaping installed on a Lot shall be first approved by the ACC. The ACC shall have the authority to create additional landscaping guidelines applicable to the Property.

13.04 Maintenance of Construction Activities. During the construction of any improvement to a Lot, the Lot, roads, landscaping and Common Areas or Limited Common Areas adjacent thereto shall be kept in a neat and orderly condition, free from any dirt, mud, garbage, trash, or other debris, so as not to cause an unsightly condition to exist or damage to occur. Any damage to the street, curb, sidewalk or to any part of any Common Areas, Limited Common Areas or utility system caused by an Owner or an Owner's builder shall be repaired by such Owner. Owners and their agents and employees shall adhere to the construction standards promulgated from time to time by the Association.

In the event the Owner or his agent, employee or contractor shall fail to maintain the Lot and adjoining areas, as specified herein, or damage occurs and such failure continues or damage remains unrepaired for seven (7) days following delivery of written notice thereof from Declarant or the Association, Declarant or the Association shall have the right, exercisable in its

sole discretion, to summarily abate any unsightly conditions, make needed repairs, and to remove any rubbish, refuse, unsightly debris and/or growths from the Lot and adjoining area. In the event the Declarant or the Association, after such notice, causes the subject work to be done, the costs of such shall be reimbursed by the Owner to the Association and will become a continuing lien on the Lot until paid.

13.05. Timely Completion. When construction of any Lot, structure, improvement, or addition thereto has begun, work thereon shall be prosecuted diligently and continuously until the full completion thereof. It is a requirement that Lots under construction in the Property be "dried-in" with exterior finishes installed (roofing, windows and finish siding and trim in place) within one hundred twenty (120) days of the commencement of construction and that all phases of work, including execution of the Landscape Plan, be complete within one (1) year of the date of ACC approval. In the event that completion is delayed beyond one year from the date of ACC approval and provided the Owner is notified within thirty (30) days of the expiration of the one year construction period, the ACC may, upon unanimous vote of the committee, rescind the original approval and require that the Owner resubmit Plans for approval.

13.06. Reconstruction of Residences. In the event of damage or destruction to a residence by fire or other casualty, the Owner shall within four (4) months diligently commence to reconstruct such residence as soon as reasonably possible and substantially in accordance with the original Plans; provided, however, that such residence shall be restored so that the exterior appearances thereof substantially resemble their appearances in form and in color prior to such damage or destruction. Notwithstanding the foregoing, however, any Owner of a damaged residence may request permission from the ACC to reconstruct or repair his or her residence in accordance with revisions in the Plans. The ACC shall grant such requests only in the event that the proposed change or deviation will materially benefit and enhance the entire Property in a manner generally consistent with the plan and development thereof.

13.07. Limitation of Liability. Review and approval of any application pursuant to this Article 13 is made on the basis of aesthetic considerations only and the ACC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, the ACC, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Lot.

13.08. Enforcement. Any construction, alteration, or other work done in violation of this Article 13 shall be deemed to be nonconforming. Upon written request from the Board, the ACC or the Declarant, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the nonconforming Lot and collected as a special assessment pursuant to Section 9.07 hereof.

Any contractor, subcontractor, agent, employee, or other permittee of an Owner who fails to comply with the terms and provisions of this Article may be excluded by the Board from the Property. In such event, neither the Association, its officers, or directors shall be held liable to any person for exercising the rights granted by this Section 13.08.

In addition to the foregoing, the Board shall have the authority and standing, on behalf of the Association, to pursue all legal and equitable remedies available to enforce the provisions of this Article 13 and the decisions of the ACC.

ARTICLE 14 MORTGAGEE PROTECTION

14.01. Interpretation. In the event any provision of this Article 14 is inconsistent with or contrary to any other provision of this Declaration, the provisions of this Article 14 shall control.

14.02. Notices. Any Mortgagee of any Lot, by written notice to the Association setting forth the Lot encumbered, the Owner thereof and the address to which notices may be sent, may request and thereby be entitled to receive written notice from the Association of (a) any default of his or her obligations under or in compliance with the provisions of this Declaration, the Bylaws or the Rules and Regulations, (b) any substantial damage to or destruction of the Common Area, including the improvements located thereon, or, if known to the Association, any substantial damage to or destruction of a Lot, including the improvements located thereon, and (c) any proposed or threatened taking by power of eminent domain of the Common Area or any portion thereof or of any Lot or portion thereof.

14.03. Mortgagee's Right to Information. Upon written request to the Association, a Mortgagee is entitled to: (a) inspect the books and records of the Association during normal business hours; (b) receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year of the Property; and (c) receive written notice of all meetings of the Association and to designate a representative to attend all such meetings.

14.04. Damage and Destruction Rights. In the event of substantial damage to or destruction of any Lot or improvements to a Lot or any part of the Common Area no provision of any document establishing the Property shall entitle the Owner of a Lot or other party to priority over such Mortgagee with respect to the distribution to such Owner of any insurance proceeds.

14.05. Condemnation Rights. If any Lot or portion thereof or the Common Area or any portion thereof is made the subject matter of any condemnation proceedings or is otherwise sought to be acquired by a condemning authority, no provision of any document establishing the Property shall entitle the Owner of a Lot or other party to priority over such Mortgagee with respect to the distribution to such Owner of the proceeds of any award or settlement.

14.06. Right of First Refusal. Any right given by an Owner of a Lot to any third person to purchase such Lot before it is offered for sale or sold to any other person (such right commonly known as a "right of first refusal") shall not be binding upon or enforceable against any Mortgagee acquiring such Lot pursuant to exercise of remedies provided for in the

Mortgage, including foreclosure by judicial action or exercise of a power of sale, or by acceptance of a deed or assignment in lieu of foreclosure.

14.07. Subordination. No provisions contained in this Declaration shall defeat or render invalid the lien of any Mortgage which is made in good faith and for value. The lien of the assessments provided for herein shall be subordinate to the lien of any Mortgage recorded prior to the date any such assessment becomes due. This subordination shall apply only to assessments on a Lot which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure or exercise of power of sale. Any Mortgagee who acquires title to or comes into possession of a Lot pursuant to exercise of remedies provided for in the Mortgage, including foreclosure by judicial action or exercise of a power of sale, and any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid assessments or charges against the Lot which have accrued prior to the time such Mortgagee or purchaser acquires title to or comes into possession of the Lot; provided, however, this exception shall not be applicable to any claim for assessments or charges levied by the Association against all Lots for the purpose of recovering any revenue lost by reason of the nonpayment of past due assessments upon such Lot; and provided further, that except as otherwise provided in this Section, all of the limitations, restrictions, covenants, conditions, easements, liens, charges, assessments, and equitable servitudes contained herein shall be binding upon any Owner whose title is derived through foreclosure sale, trustee's sale or otherwise. Except as provided above, the sale, transfer or conveyance of title to a Lot shall not relieve a selling Owner from personal liability for any assessments which became due and payable prior to such sale, transfer or conveyance, nor relieve such Lot from a duly recorded lien for any such prior unpaid assessment.

14.08. Payments by Mortgagees. Any Mortgagee, after at least ten (10) days' prior written notification to the Association of the items to be paid and the failure of the Association within such time to make payment, may pay, alone or in conjunction with other Mortgagees, delinquent taxes, liens or assessments which may be or become a charge against the Mortgagees, Area, or any portion thereof, and any overdue premiums on policies of fire and extended coverage insurance for the Common Area and in the event of a lapse of such a policy of insurance, may pay premiums to secure a new policy. In the event such payments are made, the Mortgagee making such payment shall be entitled to immediate reimbursement from the Association to the extent of the payment made.

14.09. Professional Management. In the event that Declarant or the Association enters into any contract with any person or entity to provide management or maintenance services to the Property, such contract shall not exceed one (1) year and shall provide that the Association shall have the right to terminate the contract for cause or without cause upon thirty (30) days' written notice without payment of a termination fee.

14.10. Consent of Mortgagee. With respect to any provision in this Declaration requiring the consent or written approval of a Mortgagee, any Mortgagee who does not respond within thirty (30) days' request by the Association for such consent or written approval shall be deemed to have approved such request.

ARTICLE 15 ANNEXATION

15.01. Right to Annex. Declarant shall have the right to annex to Village of St. Andrews Townhomes subdivision, thereby bringing within the scheme of this Declaration and subject to the jurisdiction of the Association, part or all of the Additional Land, if any; provided, as long as there is at least one FHA insured loan on a Lot within the Property, such annexation is in accordance with the general plan for the Property previously approved by FHA, if any. Annexation of any real property other than Declarant's annexation of the Additional Land shall require the vote or written consent of not less than sixty-seven percent (67%) of the total Voting Power of the Association residing in Members other than Declarant, provided, however, that if a two-class voting structure is in effect then such action shall require the written consent of FHA if at the time of such action FHA is the insurer or guarantor of any loan secured by a Mortgage. Annexation of additional property may be accomplished in Phases.

15.02. Procedure for Annexation. Any annexation shall be made by recordation of a Supplemental Declaration covering the real property to be annexed. The Supplemental Declaration shall describe the real property to be annexed and state that annexation is being made pursuant to this Declaration for the purpose of extending the jurisdiction of the Association to cover the property described therein. The Supplemental Declaration may contain such complementary additions and modifications to the terms of this Declaration as may be necessary or desirable to reflect the different character, if any, of the Phase being annexed and as are not inconsistent with the general scheme of this Declaration. Annexation shall be effective upon recordation of the Supplemental Declaration and thereupon the real property described therein shall be subject to all of the provisions of this Declaration, to the extent made applicable by the Supplemental Declaration, and to the jurisdiction of the Association pursuant to the terms of this Declaration, the Articles, Bylaws and Rules and Regulations.

15.03. Annexed Property. Each Owner of a Lot in an annexed Phase automatically shall be a Member of the Association and such Owners and annexed real property shall be subject to assessment by the Association for the benefit of the Property or any part thereof. Assessments of Lots in an annexed Phase shall commence upon the last to occur of: (a) commencement of regular annual assessments for the Property, and (b) the first day of the month next following the first conveyance of a Lot in such Phase to a purchaser, as provided in Section 9.09. The Association shall have the duties, responsibilities and powers set forth in this Declaration, the Articles and Bylaws with respect to annexed real property. Except as may otherwise be expressly provided in this Declaration or any Supplemental Declaration, the Property shall be managed and governed by the Association as an entirety. Assessments collected from Owners in the Property may be expended by the Association anywhere in the Property without regard to the particular Phase, area or subdivision from which such assessments came. All Owners shall have ingress and egress to and from all the Common Area throughout the Property and any Phase thereof and shall have use and enjoyment of any Common Area facilities and other amenities contained within the Common Area throughout the Property, provided that any such use shall be subject to the provisions of this Declaration, any Supplemental Declaration, the Bylaws and the Rules and Regulations.

ARTICLE 16
INDEMNIFICATION OF OFFICERS AND DIRECTORS

The Association shall indemnify any and all persons who may serve or whom have served at any time as directors or officers of the Association against any and all expenses, including amounts paid upon judgments, counsel fees and amounts paid in settlement (before or after suit is commenced), actually and necessarily incurred by such persons in connection with the defense or settlement of any claim, action, suit or proceeding in which they, or any of them, are made parties, or a party, which may be asserted against them or any of them, by reason of being or having been directors or officers or a director or an officer of the Association, except in relation to matters as to which any such director or officer or former director or officer or person shall be adjudged in any action, suit, or proceeding guilty of willful and intentional negligence or misconduct in the performance of his or her duties to the Association. Provided, however, that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association.

The provisions hereof shall be in addition to and not exclusive of any and all other rights to which any director or officer may otherwise be entitled under any law, Bylaw, agreement, vote of Association Members or otherwise. In the event of death of any officer or director, the provisions hereof shall extend to such person's legal heirs, representatives, successors and assigns. The foregoing rights shall be available whether or not such person or persons were in fact directors or officers at the time of incurring or becoming subject to such expenses, and whether or not the proceeding, claim, suit or action is based on matters which antedate the adoption of this Declaration.

ARTICLE 17
EXCULPATION

It is expressly understood and agreed that nothing contained in this Declaration shall be interpreted or construed as creating any liability whatsoever, directly or indirectly, against Declarant or any of its officers, members, managers, employees, agents, attorneys, heirs, executors, legal representatives, successors or assigns (collectively, the "Declarant Related Parties") for monetary relief or damages. In particular, and without limiting the generality of the foregoing, if any proceeding shall be brought to enforce the provisions of this Declaration, the party instituting such proceeding shall not be entitled to take any action to procure any money judgment against any of the Declarant Related Parties.

ARTICLE 18
DISPUTE RESOLUTION

18.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties"), agree to attempt to resolve

disputes involving Village of St. Andrews Townhomes without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to, directly or indirectly, file a law suit for a Claim described in subsection (b), without first submitting the Claim to the alternative dispute resolution procedures described in Section 18.2.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to

(i) the interpretation, application, or enforcement of the Declaration of Covenants, Conditions and Restrictions for Village of St. Andrews Townhomes, Articles of Incorporation and Bylaws of Village of St. Andrews Townhomes Homeowners Association of Matthews, Inc., Rules and Regulations, hereinafter all collectively "Governing Documents",

Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing

(iii) the design or construction of improvements within the Property, other than matters of aesthetic judgment under Article 13, which shall not be subject to review, or

(iv) trespass, nuisance, property damage, or enforcement of laws, codes, or ordinances within Village of St. Andrews Townhomes.

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 18.2:

(i) any Association action to collect assessments or other amounts due from any Owner;

(ii) any Association action to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of this Declaration relating to creation and maintenance of community standards (Articles 6 and 7);

(iii) any suit which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(iv) any suit which affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 18.2; and

(v) any suit as to which the applicable statute of limitations would expire within 180 days of giving the Notice required by Section 18.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this Article.

18.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice") by mail or personal delivery to each Respondent, and to the Board, stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
- (ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the Bound Parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Mecklenburg County area. Each Bound Party shall present the mediator with a written summary of the Claim.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Bound Parties do not settle the Claim within 30 days after submitting the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Bound Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Bound Parties. If any Bound Party thereafter fails to abide by the terms of such agreement, then any other Bound Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Bound Party taking action to enforce the

agreement shall, upon prevailing, be entitled to recover from the non-complying Bound Party (or each one in equal proportions) all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

(c) Action Involving Declarant - Final and Binding Arbitration. Except for disputes in which a party other than an Owner or the Association is an indispensable party, all disputes, including any Claim described above, between an Owner or the Association and Declarant shall be resolved by final and binding arbitration in accordance with this subsection (c) and, except as specifically provided, shall not be submitted as a lawsuit or other proceeding in any North Carolina state court or federal court. This subsection (c) is an agreement to arbitrate and is specifically enforceable under North Carolina law. Any arbitration award shall be subject only to review by the North Carolina or federal appellate courts in the same manner as are trial court judgments. Judgment may be entered upon the arbitration award in any court of competent jurisdiction to the fullest extent permitted under North Carolina law.

Prior to commencing arbitration under this subsection, the parties shall engage in negotiation and mediation in accordance with Sections 18.2(a)-(c), regardless of whether such matter is a Claim under Section 18.1. If negotiation and mediation are unsuccessful in resolving the dispute, the Owner or the Association, as applicable, shall have until expiration of the applicable statute of limitations under North Carolina law (as would apply to the same claim being brought in a North Carolina or federal court) to submit the dispute to the same claim Arbitration Association for arbitration in Mecklenburg County. The American Arbitration Association shall appoint three arbitrators, including one attorney, to conduct the arbitration in accordance with its rules. The arbitrators shall render a written judgment accompanied by findings of fact and conclusions of law.

If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and the Respondent shall be released and discharged from any and all liability to the Claimant arising out of the dispute. The parties shall share equally the costs of conducting the arbitration until a prevailing party is determined; provided, the prevailing party shall be entitled to recover all of its costs incurred in the action, including, without limitation, reasonable attorneys' fees.

18.3. Initiation of Litigation by Association.

After the end of control by Declarant pursuant to Section 8.06, the Association shall not initiate any judicial or administrative proceeding which is reasonably expected to cost at least \$25,000.00 in legal fees to prosecute to completion unless first approved by a majority of the Class "A" votes in the Association. Any Board recommendation concerning initiation of litigation must be in writing and must be accompanied by a feasibility analysis including an explanation of the issues, a budget for legal and related expenses, the amount in controversy, the expectation of success, and a copy of bids from a minimum of three qualified law firms.

ARTICLE 18.19
MISCELLANEOUS PROVISIONS

19.19.01. Conflict with the Act, Severability. Should any of the terms, conditions, provisions, paragraphs, or clauses of this Declaration conflict with any provisions of the Act, the provisions of the Act shall control unless the Act permits the Declaration to override the Act, the which event the Declaration shall control. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause of this Declaration, or any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability or affect of the rest of this Declaration, or the application of any such covenant, restriction, condition, limitation, provision, paragraph or clause to any other person or circumstance.

20.19.02. Interpretation of Declaration. Whenever appropriate, singular may be read as plural, plural may be read as singular, and the masculine gender may be read as the feminine or neuter gender. Compound words beginning with the prefix "here" shall refer to this entire Declaration and not merely the part in which they appear.

21.19.01. Law Controlling. This Declaration shall be construed and controlled by and under the laws of the State of North Carolina.

22.19.014. Power to Settle Claims. The Board shall have the power and authority to compromise, settle, release and otherwise adjust claims, demands, causes of action and liabilities in favor of the Association and the Owners, on behalf of the Association and Owners, as the case may be, provided any such claim, demand, cause of action or liability arises out of or relates to a condition or defect common to all or a majority of the Lots or improvements constructed thereon, or to the development, design, construction, condition, repair or maintenance of or damage or injury to or defect in the Common Area or part thereof, and the Association shall have the right and the power to make and receive all payments or other consideration necessary therefore or in connection therewith. For such purposes, the Board shall be, and hereby is, irrevocably appointed attorney in fact to act on behalf of all Owners upon such terms and conditions and for such consideration as may be approved by a majority of the Board.

23.19.015. Independence of Provisions. The provisions of this Declaration shall be deemed independent and severable. Invalidation or partial invalidation of any provision of this Declaration by judgment or court order shall not affect any other provision of this Declaration, and the remaining provisions shall remain in full force and effect.

24.19.016. Notices. Notices shall be in writing and shall be addressed as follows: (a) if to an Owner, to the address of his or her Lot; (b) if to Declarant, to 13950 Ballantyne Corporate Place, Suite 160, Charlotte, North Carolina 28277-3414; and (c) if to the Association, to 13950 Ballantyne Corporate Place, Suite 160, Charlotte, North Carolina 28277-3414. The Association may designate a different address for notices by giving written notice of such change of address to all Owners and to Declarant. Declarant may designate a different address for notices by giving written notice of such change of address to all Owners and to the Association.

Any Owner may designate a different address for notices by giving written notice of such change of address to the Association and to Declarant.

25 19.017. Headings. The headings used in this Declaration are for convenience and reference only and the words contained therein shall not be held to expand, modify, or aid in the interpretation, construction, or meaning of this Declaration.

26 19.8. Enforcement. The failure of any Owner to comply with the provisions of this Declaration, the Bylaws, the Articles or the Rules and Regulations shall entitle the Association, any Owner, or any of them, to maintain an action for the recovery of damages or injunctive relief or both, and such persons or entities, or any of them, shall have the right to enforce all limitations, restrictions, covenants, conditions, easements, liens, charges, assessments and equitable servitudes imposed by or pursuant to the provisions of this Declaration. Failure to enforce the provisions of this Declaration shall not be deemed a waiver of the right to do so thereafter. All remedies provided in this Declaration shall be cumulative and in addition to any other remedies available under law.

27 19.019. Equal Opportunity Housing. This Property provides equal opportunity housing. Each Lot sold shall be sold without regard to the race, creed, color, national origin, ancestry, religion, marital status, familial status, handicap, age or sex of the purchaser.

28 19.10. Amendments. This Declaration may be amended only in strict compliance with the Act, including, without limitation, Section 47F-2-117 of the Act, except that no Amendment altering or impairing Special Declarant Rights may be made without the written consent of the Declarant.

Notwithstanding the foregoing, and provided such amendment is not expressly prohibited by the Act, during any period in which a two-class voting structure is in effect, Declarant may amend this Declaration without the approval of any Member or Mortgagee provided the amendment does not materially alter or change any Owner's right to the use and enjoyment of such Owner's Lot or of the Common Area as set forth in this Declaration and the amendment does not adversely affect the title to any Lot. In the event that such amendment would materially and adversely affect the security, title and interest of any Mortgagee, such amendment shall be valid only upon the written consent of sixty-seven percent (67%) of the Mortgagees (based on one vote for each mortgage owned).

Should the FHA, the Department of Veterans' Affairs, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Declaration or make such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Declaration to be recorded to reflect such changes.

Any other amendments of this Declaration shall require (a) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members of the Association as such classes are set forth in the Bylaws and this Declaration and the written approval of FHA if at the time of such action FHA is the insurer or

guarantor of any loan secured by a Mortgage; or (b) if a two-class voting structure is not in effect, the vote or written consent of both sixty-seven percent (67%) of the Voting Power of the Association and the vote or written consent of sixty-seven percent (67%) of the Voting Power of the Association residing in Members other than Declarant; provided, however, that the percentage of the Voting Power (of each class of Members, of the Association, and of Members other than Declarant) necessary to amend a specific provision of this Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that provision.

Any amendment which establishes, governs, provides for or regulates any one of the following: (i) voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common Area; (iv) insurance or fidelity bonds; (v) right to use of the Common Area; (vi) responsibility for maintenance and repair of the Property; (vii) expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property (other than annexation of the Additional Land); (viii) the boundaries of any Lot once conveyed by Declarant to an Owner; (ix) interests in the Common Area; (x) leasing of ownership interests; (xi) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer, or otherwise convey his Lot; (xii) any provisions which are for the express benefit of Mortgagees; or (xiii) any other material amendment shall require written consent of sixty-seven percent (67%) of the Mortgagees (based on one vote for each Mortgage owned), and (a) if a two-class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the Voting Power of each class of Members and the written approval of FHA if at the time of such action FHA is the insurer or guarantor of any loan secured by a Mortgage, or (b) if a two-class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the total Voting Power of the Association, and the written consent of sixty-seven percent (67%) of the Mortgagees (based on one vote for each mortgage owned). Any Mortgagee who does not respond within thirty (30) days' request by the Association for consent to an amendment of this Declaration shall be deemed to have approved such request.

Any instrument amending this Declaration must contain a certification by the Secretary of the Association that the amendment has been correctly adopted in accordance with the provisions of this Declaration and be recorded in the official records of the County. Any such amendment shall be effective upon the date of recordation.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration as of the date first above set forth.

DECLARANT

WKB ST. ANDREWS, LLC, a North
Carolina limited liability company

By: _____

Monique

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Lori W. Britt, a Notary Public in and for said County and State, do hereby certify that Max A. Williams, Manager of WKB ST. ANDREWS, LLC, a North Carolina limited liability company, personally appeared before me this day, and acknowledged the due execution of the foregoing instrument on behalf of the company.

WITNESS my hand and official seal, this 26th day April, 2006.

Lori W. Britt
Notary Public

My Commission Expires: _____

[NOTARIAL SEAL]

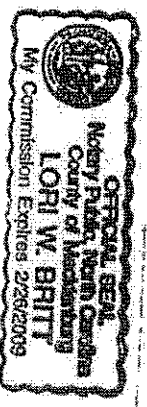
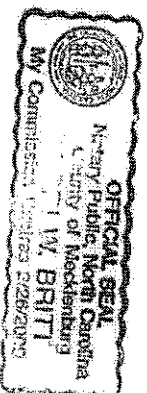


EXHIBIT A

BEING all of Lots 5A, 5B, 5C, 5D, 6A, 6B, 6C, 6D, 7A, 7B, 7C, 7D, 8A, 8B, 8C and 8D of the Village of St. Andrews, Map 1, subdivision as same is shown on a map thereof recorded in Map Book 45 at page 662 in the Mecklenburg County Public Registry and including the property within the private road rights-of-way as depicted on the aforesaid map for Abbey Walk Lane, Woodburn Terrace and North Castle Court.

Exhibit B

Legal Description

All that certain tract or parcel of land lying and being in Morning Star Township, Mecklenburg County, North Carolina, and being more particularly described as follows:

BEING all that certain parcel of land containing approximately 24.315+ acres designated as "PARCEL 2" on that certain plat entitled "Subdivision Map of: McKee Farms-Matthews, LLC," prepared by WK Dickson, and recorded in Map Book 42 at Page 701 in the Mecklenburg County, North Carolina, Public Registry, reference to which is hereby made for a more particular description.

VILLAGE OF ST. ANDREWS TOWNHOMES
CONSENT OF MORTGAGEE

BANK OF AMERICA, N.A., being the Beneficiary under those certain Deeds of Trust from Declarant to PRLAP, INC., Trustee, conveying the property or portions thereof described in this Declaration of Covenants, Conditions and Restrictions of VILLAGE OF ST. ANDREWS TOWNHOMES (hereinafter "Declaration") and made a part hereof, and recorded in Book 18022 at Page 76 and re-recorded in Book 18034 at Page 797 in the Mecklenburg County Public Registry, as amended, does hereby consent to the recordation of this Declaration and the imposing of the provisions thereof to said real property described in the Declaration and the Beneficiary does hereby consent and agree that from and after this date, the provisions of this Declaration, including all exhibits, attachments, supplements and amendments thereto, shall be superior to the lien of said Deeds of Trust on said Property. The execution of this Consent of Mortgagee by the Beneficiary shall not be deemed or construed to have the effect of creating between said Beneficiary and Declarant, the relationship of partnership or of joint venture, nor hereunder be deemed to impose upon said Beneficiary any of the liabilities, duties or obligations of the Declarant under the foregoing Declaration. Said Beneficiary executes this Consent of Mortgagee solely for the purposes set forth herein. The said Trustee also joins in and executes this Consent as Trustee of said Deed of Trust for the said purposes hereinabove set forth.

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed and sealed as of the 25th day of April, 2006.

TRUSTEE:

PRLAP, INC.

By: Stephen A. Winkell
Sr. Vice President

BENEFICIARY:

BANK OF AMERICA, N.A.

By: Stephen A. Winkell
Sr. Vice President

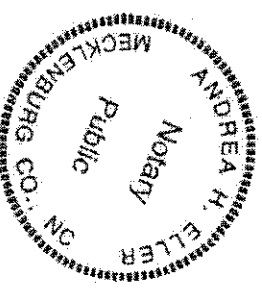
STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, certify that Stephena A. Elller personally came before me this day and acknowledged that he/she is SV President of PRLAP, INC. and that he/she, as SV President of PRLAP, INC., being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 25th day of April, 2007

Stephena A. Elller
Notary Public



My commission expires:

10-12-07

(NOTARIAL SEAL)

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, a Notary Public of the County and State aforesaid, certify that Stephena A. Elller personally came before me this day and acknowledged that he/she is SV President of BANK OF AMERICA, N.A., and that he/she, as SV President of BANK OF AMERICA, N.A., being authorized to do so, executed the foregoing on behalf of the corporation.

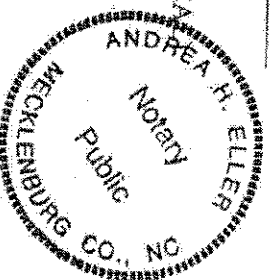
Witness my hand and official seal, this the 25th day of April, 2007

Stephena A. Elller
Notary Public

My commission expires:

10-12-07

(NOTARIAL SEAL)



VILLAGE OF ST. ANDREWS TOWNHOMES
CONSENT OF MORTGAGEE

SOUTH CHARLES INVESTMENT CORPORATION, being the Beneficiary under those certain Deeds of Trust from Declarant to J. Richard Saas, Trustee, conveying the property or portions thereof described in this Declaration of Covenants, Conditions and Restrictions of VILLAGE OF ST. ANDREWS TOWNHOMES (hereinafter "Declaration") and made a part hereof, and recorded in Book 18022 at Page 95 and re-recorded in Book 18034 at Page 817 in the Mecklenburg County Public Registry, as amended, does hereby consent to the recordation of this Declaration and the imposing of the provisions thereof to said real property described in the Declaration, and said Beneficiary does hereby consent and agree that from and after this date, the provisions of this Declaration, including all exhibits, attachments, supplements and amendments thereto, shall be superior to the lien of said Deeds of Trust on said Property. The execution of this Consent of Mortgagee by the Beneficiary shall not be deemed or construed to have the effect of creating between said Beneficiary and Declarant, the relationship of partnership or of joint venture, nor shall said Beneficiary be deemed to have accepted in any way nor shall anything contained hereunder be deemed to impose upon said Beneficiary any of the liabilities, duties or obligations of the Declarant under the foregoing Declaration. Said Beneficiary executes this Consent of Mortgagee solely for the purposes set forth herein. The said Trustee also joins in and executes this Consent as Trustee of said Deed of Trust for the said purposes hereinabove set forth.

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed and sealed as of the 25th day of April, 2006.

TRUSTEE:

J. Richard Saas

BENEFICIARY:

SOUTH CHARLES INVESTMENT CORPORATION

By: [Signature]
Senior Vice President

STATE OF MARYLAND

BALTIMORE COUNTY

I, the undersigned Notary Public of the County of Mecklenburg, State of North Carolina, do hereby certify that J. Richard Saas personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal this _____ day of April, 2006.

Notary Public

My commission expires: _____

(NOTARIAL SEAL)

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

I, a Notary Public of the County and State aforesaid, certify that Thomas W. Stevens personally came before me this day and acknowledged that he/she is Senior Vice President of SOUTH CHARLES INVESTMENT CORPORATION, and that he/she, as Senior Vice President of SOUTH CHARLES INVESTMENT CORPORATION, being authorized to do so, executed the foregoing on behalf of the corporation.

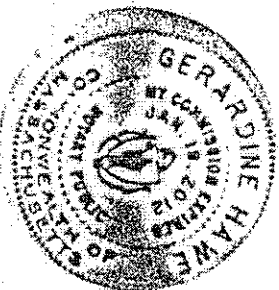
Witness my hand and official seal, this the 25 day of April, 2006.

Notary Public

My commission expires:

01/19/2012

(NOTARIAL SEAL)

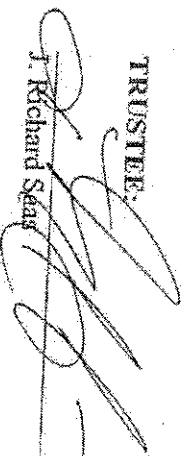


VILLAGE OF ST. ANDREWS TOWNHOMES
CONSENT OF MORTGAGEE

SOUTH CHARLES INVESTMENT CORPORATION, being the Beneficiary under those certain Deeds of Trust from Declarant to J. Richard Seas, Trustee, conveying the property or portions thereof described in this Declaration of Covenants, Conditions and Restrictions of VILLAGE OF ST. ANDREWS TOWNHOMES (hereinafter "Declaration") and made a part hereof, and recorded in Book 18022 at Page 95 and re-recorded in Book 18034 at Page 817 in the Mecklenburg County Public Registry, as amended, does hereby consent to the recordation of this Declaration and the imposing of the provisions thereof to said real property described in the Declaration, and said Beneficiary does hereby consent and agree that from and after this date, the provisions of this Declaration, including all exhibits, attachments, supplements and amendments thereto, shall be superior to the lien of said Deeds of Trust on said Property. The execution of this Consent of Mortgagee by the Beneficiary shall not be deemed or construed to have the effect of creating between said Beneficiary and Declarant, the relationship of partnership or of joint venture, nor shall said Beneficiary be deemed to have accepted in any way nor shall anything contained hereunder be deemed to impose upon said Beneficiary any of the liabilities, duties or obligations of the Declarant under the foregoing Declaration. Said Beneficiary executes this Consent of Mortgagee solely for the purposes set forth herein. The said Trustee also joins in and executes this Consent as Trustee of said Deed of Trust for the said purposes hereinabove set forth.

IN WITNESS WHEREOF, the undersigned have caused this Consent to be duly executed and sealed as of the 21st day of April, 2006.

TRUSTEE:


J. Richard Seas

BENEFICIARY:

SOUTH CHARLES INVESTMENT CORPORATION

By: _____
President