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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE TOWNES AT CRABTREE

Made by:
Pulte Home Corporation,
a Michigan corporation

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NORTH CAROLINA

WAKE COUNTY

KNOW ALL MEN BY THESE PRESENTS, that this Declaration of Covenants, Conditions and Restrictions for THE TOWNES AT CRABTREE (the "Declaration") is made and entered into on this 15th day of February, 2006, by PULTE HOME CORPORATION, a Michigan corporation (hereinafter referred to as the "Declarant").

RECITALS

1. Declarant is the owner of the real property described in Article One of this Declaration and desires to create thereon a residential community (the "Community") of single-family townhomes (the "Townhomes") together with any private streets, roads, bike paths, footways, open spaces, common areas, landscaping, entrances, drainage facilities, access easements, site lighting and signage, and any recreation area(s) and any other common facilities shown on any Recorded Plat (as hereinafter defined) (sometimes referred to collectively herein as the "Facilities") for the benefit of the Community.

2. Declarant desires to provide for the preservation of the values and amenities in the Community and for the maintenance of the Facilities and Common Area (as hereinafter defined) and, to this end, desires to subject the real property described in Article One, and any additions thereto, to the covenants, conditions, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is, and are, for the benefit of said real property and each owner of a portion thereof.

3. The Declarant's present intention, stated here for information of present intent only and not as a warranty or representation of a future fact, is to develop the Community with single family attached residential units.

4. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Community, to create an entity to which should be delegated and assigned the powers of maintaining, administering, operating and replacing the Community properties and Facilities, administering and enforcing the covenants, conditions and restrictions, and collecting and disbursing the assessments and charges hereinafter created.

5. Declarant has caused or will cause to be incorporated under the laws of the State of North Carolina, prior to the sale of any Lot (as hereinafter defined) in the Community, a non-profit corporation to be known as The Townes at Crabtree Homeowners Association, Inc., for the purpose of exercising the functions aforesaid.

DECLARATION

NOW THEREFORE, the Declarant declares that the real property described in Article One and any additions thereto is and shall be held, used, transferred, sold, conveyed and occupied subject to the terms, conditions and provisions of the covenants, conditions, restrictions, charges and liens (sometimes referred to herein as "covenants and restrictions") as hereinafter set forth.

This Declaration has been drafted to comply with Raleigh City Code ordinance number (2005) – 897 TC 272 – (TC 12-05), adopted by the Raleigh City Council on September 20, 2005. Article Seventeen hereof (Article Seventeen of this Declaration being referred to herein from time to time as the "Raleigh Code Article") contains the provisions promulgated by City Attorney in accordance with such ordinance, and, as required by the City Attorney, such provisions have been incorporated herein in their entirety, without revision except as to insertion of relevant terms into blanks reserved therefor in the City's form. As specified in the Raleigh Code Article, any inconsistencies between the terms and provisions of the other Articles hereof and the Raleigh Code Article shall be resolved in favor of the terms of the Raleigh Code Article, and any inconsistencies between the terms and provisions of this Declaration and the ordinances of the City of Raleigh, including without limitation the ordinance described above, shall be resolved in favor of the Raleigh City Code ordinances.

ARTICLE ONE
PROPERTY SUBJECT TO THIS DECLARATION

Section 1.1 Existing Property. The real property which is, and shall be, held, used, transferred, sold, conveyed and occupied subject to this Declaration (the "Property") is located in Wake County, North Carolina, is or will be commonly known as The Townes at Crabtree, and is more particularly described on Exhibit A, attached hereto and incorporated herein by reference.

Section 1.2 Additions to Property. Real property in addition to the Property may hereafter become subject to this Declaration in the following manner:

(a) Additions in Accordance with a Master Plan of Development. The Declarant, its successors and assigns, shall have the right but not the obligation, without further consent of the Association or its Members, to bring within the scheme and operation of this Declaration all or any portions of the real property that are contiguous to the Property, as the Property is increased from time to time under the terms hereof, but such right shall cease to exist on November 1, 2015.

The additions authorized under this and the succeeding subsection shall be made by filing of record, in the Office of the Register of Deeds of Wake County, one or more supplementary Declarations of Covenants, Conditions and Restrictions with respect to such additional property or properties, executed by the Declarant and, if different, the owner(s) of the additional property, which shall extend the operation and effect of this Declaration to such additional property or properties (hereinafter sometimes referred to as a "Supplemental Declaration" or "Annexation Declaration").

See also Section 17.A.13 of this Declaration regarding other conditions of and provisions governing annexation.

(b) Intentionally Deleted.

(c) Mergers, Combinations or Consolidations. Upon merger, combination or consolidation of the Association with another association, the properties, rights and obligations of the Association may, by operation of law, be transferred to another surviving or consolidated association, or, in the alternative, the properties, rights, and obligations of another association may, by operations of law, be added to those of the Association as the surviving corporation pursuant to a merger, combination or consolidation. The surviving or consolidated association may administer the restrictions established upon any other properties, as one scheme. No such merger, combination or consolidation, however, shall effect any revocation, change or addition to the covenants and restrictions established by this Declaration within the Property, except as herein provided.

Section 1.3 Access Easement Reserved. The Declarant reserves unto itself for the benefit of Declarant, its successors and/or assigns, a non-exclusive and alienable easement and right of ingress, egress and regress over and across all private streets and roads within the Property, if any, for access to and from other real property of Declarant or its successors and/or assigns. Such easement shall include the ability for the Declarant to complete any development obligations or other improvements on Common Area previously conveyed to the Association. Furthermore, such easement shall continue until that time when all new construction has ceased on additions to the Property acquired under Section 1.2. Any damage caused by Declarant, its agents, successors and/or assigns to the private streets and roads within the Property when exercising its rights created by this Section shall be repaired at the expense of Declarant, its successors, or assigns.

ARTICLE TWO
DEFINITIONS

The following words when used in this Declaration or any amended or Supplemental Declaration (unless the context shall require otherwise) shall have the following meanings:

"Act" shall have the meaning assigned to it in the Raleigh Code Article.

"Architectural Guidelines" shall have the meaning assigned to it in Section 4.4 of this Declaration.

"Assessment(s)" shall mean and refer to the assessment(s) and charges levied by the Association against Members who are the Lot Owners of the Property and shall include annual, special and Special Individual Assessments as described in Article Nine of this Declaration.

"Association" shall mean and refer to The Townes at Crabtree Homeowners Association, Inc., and is the "Association" as that term is defined in the Raleigh Code Article. The Association is not a Sub-Association, as that term is defined in the Raleigh Code Article.

"Board" shall have the meaning assigned to it in the Raleigh Code Article, and shall be governed by its Bylaws.

"Boundary Plat" shall mean and refer to that certain plat of survey recorded in Book of Maps 2006, Pages 251-260, Wake County Registry, which survey depicts all of the property to be encumbered and benefited by this Declaration at the time of recording hereof.

"Building" shall mean and refer to any building located upon the Property that contains Dwelling Units.

"Bylaws" shall mean and refer to the bylaws of the Association and all amendments thereto.

"Committee" shall have the meaning assigned to it in Article Four of this Declaration.

"Common Area(s) or "Common Property(ies)" shall have the meaning assigned to it in the Raleigh Code Article and, upon annexation, shall also include such areas falling within such definition that are later annexed for the Community in accordance with the terms hereof. Common Area shall be subject to special rights and limitations, if any, granted to or imposed on Lot Owners of particular Lots and shall include Facilities, if any, constructed by the Declarant or the Association. It is intended that the Common Are shall be conveyed to the Association for the benefit of each of the Lot Owners.

"Common Expenses" shall have the meaning assigned to it in the Raleigh Code Article, and for all other Articles herein shall also include any expenses incurred by the Association with respect to the maintenance, repair and replacement of Stormwater Control Measures (as hereinafter defined).

"Community" shall have the meaning assigned to it in the Recitals of this Declaration.

"Declarant" shall have the meaning assigned to it in the Raleigh Code Article.

"Dwelling Unit" shall mean and refer to any improvement or portion thereof situated on a Lot intended for use and occupancy as one (1) single-family dwelling, irrespective of the number of Lot Owners thereof (or the form of ownership) located within the Property and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) a single family unit of an attached homes structure, such as individual townhouses and patio or zero lot line homes. Where appropriate by context, the term shall include both the improvements and the real property on which the improvements are situated.

"Facilities" shall have the meaning assigned to it in the Recitals of this Declaration. Facilities may be located on Common Area but need not be. "Facilities" shall include all improvements made to Common Area.

"FHA" shall mean and refer to the Federal Housing Authority of the United States Department of Housing and Urban Development.

"First Mortgagee" shall mean the mortgagee of any first priority loan on a Lot.

"HUD" shall mean and refer to the United States Department of Housing and Urban Development.

"Lot" shall mean and refer to any improved or unimproved numbered or lettered parcel of land within the Property which is intended for use as a site for a Dwelling Unit, as shown upon any Recorded Plat of any part of the Property and labeled thereon as a "Lot", and shall not include Common Areas or any property in the Property not yet subdivided for sale as an individual lot. No property in the Property shall be developed as a Dwelling Unit until designated as a Lot on a Recorded Plat. Property designated as a Lot may later be designated for some other use on a Recorded Plat, including a roadway linking the Community to adjacent land or developments. A tract of land shall not be considered a "Lot" hereunder merely because it is labeled as a "lot" on a Recorded Plat if such Recorded Plat does not clearly treat the tract of land as one on which a Dwelling Unit is intended to be constructed. For instance, and not by way of limitation, if the Recorded Plat labels the tract of land as "common area" or "open space" or any other similar designation, then such tract shall not be a "Lot" for purposes of this Declaration and is instead to be considered "Common Area".

"Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Property. Notwithstanding any applicable theory of any lien or mortgage law, "Lot Owner" shall not mean or refer to any mortgagee or trust beneficiary unless and until such mortgagee or trust beneficiary has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. (Note: the words "Member" and "Lot Owner" are meant to describe all of the owners within the Community interchangeably as semantics dictate throughout this Declaration.)

"Maintenance Agreement" shall mean and refer to that certain Maintenance Agreement, recorded in Book 8534, Page 2216, Wake County Registry, as such Agreement is lawfully amended from time to time. At the time of the recording of this Declaration, the Maintenance Agreement is or may be in effect, and cost-sharing among three parcels of land (the Property being one such parcel) for certain maintenance obligations described therein is divided among the parcels according to their size. No provision is made for prorating a parcel's share of maintenance costs among subdivided portions of such parcel, and Lot Owners agree by acceptance of a deed to their Lot that the Property's share of any costs assessed under the Maintenance Agreement are to be borne in equal shares by all Lots (as an assessment against such Lot as described in Article 9 hereof). Furthermore, to facilitate any amendment, or even the termination, of the Maintenance Agreement, each Lot hereby appoints and delegates the

Association to negotiate on behalf of the Property as a whole, with authority to bind all Lots and other portions of the Property in any amendment to or termination of the Maintenance Agreement. On behalf of all portions of the Property, the Association is hereby declared to be the party that shall be entitled to enter into (including execution thereof) any amendment to or termination of the Maintenance Agreement, and no individual Lot Owner (nor any owner of any other portion of the Property, which is in its entirety encumbered by this Declaration) shall be required to consent to or execute any such amendment to or termination of the Maintenance Agreement in order for such amendment or termination to be deemed valid and binding on all portions of the Property.

"Member" shall mean a member of the Association and shall refer to a Lot Owner in the Property.

"Property" shall have the meaning assigned to it in Article One of this Declaration and any additions thereto as are made subject to this Declaration by any Supplemental Declaration(s) under the provisions of this Declaration.

"Public Pedestrian Easement" shall mean and refer to the areas shown on the Recorded Plat as "Public Pedestrian Easement". Members of the general public shall have a right of pedestrian access over, across and through the Public Pedestrian Easement.

"Raleigh Code Article" shall have the meaning assigned to it on page two of this Declaration, in the paragraph preceding Article One hereof.

"Recorded Instrument" shall mean and refer to any document relating to the Property, or any portion thereof, recorded in the Wake County Registry and executed by the Declarant (during and until two years after termination Class B membership (as hereinafter defined in Section 7.2 (b))) and by the Association otherwise to show its consent thereto (and by any other owner(s) of property described therein and affected thereby if different). In any case in which the designation or description of the same property described in two different Recorded Instruments is different (for example, property is designated as a Lot in one instrument and a street in another, or legal boundaries of areas are described differently in different Recorded Instruments), the designation and description on the later-recorded of the Recorded Instruments shall control.

"Recorded Plat" shall mean and refer to any map of the Property, or any portion thereof, recorded in the Wake County Registry and executed by the Declarant or the Association to show its consent thereto (and any owner(s) of such property, if different). In any case in which the designation and/or boundary lines of the same property shown on two different Recorded Plats are different (for example, property is designated as a street on one plat and as a Lot on the other, or boundary lines are shown differently on two different Recorded Plats), the designation and boundary lines on the later-recorded of the Recorded Plats shall control.

"Rules and Regulations" shall have the meaning assigned to it in Section 7.8 of this Declaration.

"Special Individual Assessments" shall have the meaning assigned to it in Section 9.5 of this Declaration.

"Stormwater Control Measures" shall have the meaning assigned to it in the Raleigh Code Article.

"Supplemental Declaration" shall have the meaning assigned to it in Section 1.2 of this Declaration.

"Townhomes" shall have the meaning assigned to it in the Recitals of this Declaration.

"VA" shall mean and refer to the United States Department of Veterans Affairs.

ARTICLE THREE
GENERAL PROVISIONS

Section 3.1 Duration. The covenants and restrictions of this Declaration shall run with the land, and shall inure to the benefit of, and be enforceable by, the Association or any Lot Owner, its and their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended in accordance with the provisions of Article Twelve hereof. Amendments made in conformity with that Article may alter any portion of the Declaration hereof, including but not limited to the duration and amendment provisions hereof.

Section 3.2 Intentionally Deleted.

Section 3.3 Notices. Any notice required to be sent to any Member or Lot Owner, under the provisions of this Declaration, shall be deemed to have been properly sent when mailed, postage prepaid, registered or certified mail, return receipt requested, or deposited with an overnight courier (such as, but not limited to Federal Express) and addressed to the person at the last known address of the person who appears as Member or Lot Owner on the records of the Association at the time of such mailing. In the event that a Member or Lot Owner's address is absent from the Association's records, the notice may be sent to the address listed on the Wake County tax records at the time of the mailing. The sender shall not be required to cause title to any Lot to be examined. Notice to any one of the Lot Owners, if title to a Lot is held by more than one, shall constitute notice to all Lot Owners of that Lot.

Section 3.4 Enforcement. The Association, Declarant and/or any Lot Owner may enforce these covenants and restrictions. Furthermore, notwithstanding any provision granting the Association the right to specifically act hereunder when a Lot Owner fails to comply with the covenants and restrictions contained herein, the Declarant and/or any Lot Owner are entitled to enforce the terms hereof. In addition to specific rights granted herein to the Association to act in response to a violation of the covenants and restrictions contained herein, enforcement of these covenants and restrictions may be by an appropriate civil proceeding against any person or

persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, or both, and against the land to enforce any lien created by these covenants and restrictions; and failure by the Association, Declarant or any Lot Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.

The Association or the Declarant may impose fines or suspend Community privileges or services in the event of a Lot Owner's failure to comply with the requirements of this Declaration or any architectural guidelines or rules promulgated by the Declarant, the Committee or the Association. In such circumstances, a hearing shall be held before an adjudicatory panel appointed by the Board to determine if a Lot Owner should be fined or if Community privileges or services should be suspended. If the Board fails to appoint an adjudicatory panel to hear such matters, hearings under this Section shall be held before the Board. The Lot Owner charged shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If the Board, after weighing any evidence provided by the Lot Owner, decides that a fine should be imposed, a fine not to exceed one hundred fifty dollars ($150.00) or such higher amount as may be allowed by the Act may be imposed for the violation and without further hearing, for each day after the decision that the violation occurs or continues. Such fines shall be Assessments secured by liens as more particularly described in Article Nine hereof. If it is decided that a suspension of Community privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured. The proceedings imposing fines shall be conducted in accordance with the provisions of the North Carolina Planned Community Act (North Carolina General Statutes Chapter 47F) as it may be amended from time to time.

Section 3.5 Severability. Invalidation of any one of these covenants and restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

ARTICLE FOUR
ARCHITECTURAL CONTROL

Section 4.1 Purposes. The Declarant desires to provide for the preservation of the values in the Property with respect to vegetation and any improvements to be constructed or altered on any Lot constituting a portion of the Property, and to that end, the Declarant or the Association will establish an architectural control committee (the "Committee"), in accordance with Section 4.4 hereof, in order to provide, enforce and maintain certain standards as to harmony of exterior design and location of the improvements on the Lot in relation to surrounding structures, natural features and topography.

Section 4.2 Architectural Restrictions.

(a) No fence, other than a fence constructed by Declarant, shall be constructed or erected upon any Lot.

(b) Only one (1) Dwelling Unit may be constructed on any Lot.

(c) No Dwelling Unit containing more than three (3) stories shall be constructed on any Lot.

(d) No structure shall be constructed, placed or installed upon any Lot, in any location which encroaches beyond any front, side or rear building set-back line applicable to any Lot.

(e) No building, wall, patio, playhouse, mail-box, pool, basketball hoop or other structure shall be commenced, constructed, installed, erected or maintained upon any Lot, nor shall any exterior addition to, change in (including, without limitation, any change in the type of roofing material or in the color of the paint, stain or varnish), or alteration of, any Dwelling Unit located on any Lot be made until complete and final plans and specifications, setting forth the information hereinafter described, shall have been submitted to, and approved in writing by, the Committee. It shall be duty of the Committee to approve or disapprove each request for approval of the construction of a structure on a Lot, or the alteration of an existing structure located on any Lot.

Section 4.3 Architectural Control. Unless expressly authorized in writing by the Committee, no Dwelling Unit, fence, wall, driveway, patio, swimming pool, building or other structure or improvement whatsoever shall be constructed or maintained, nor shall any exterior addition or alteration to any Dwelling Unit, fence, wall, driveway, patio or other building or structure or improvement be started, nor shall any clearing or site work be commenced or maintained upon any Lot in the Property, until plans and specifications therefor showing the shape, dimensions, materials, basic exterior finishes and colors, location on site, driveway, parking, decorative landscape planting, floor plans and elevations therefor (all of which are hereinafter referred to collectively as the "Plans"), and any application fee set by the Association, shall have been submitted to, and approved in writing by, the Committee, as to harmony of external design and location in relation to any surrounding structure, natural features and topography. The Committee shall have the absolute and exclusive right to refuse to approve any such Plans which are not suitable or desirable in the opinion of the Committee for any reason, including purely aesthetic reasons, which in the sole and uncontrolled discretion of the Committee shall be deemed sufficient. Furthermore, the Committee may, in its discretion, seek input on any proposed Plans from the Lot Owners of adjacent Lots or Lots that may be affected by such Plans. Any such input shall be a factor that the Committee may consider, but shall not be considered deterministic in the Committee's decision of whether to approve the Plans. The Committee may promulgate design standards from time to time to be adhered to by the Plans for the Lots or Dwelling Units in the Property. A current copy of all design standards shall be kept on file in the principal office of the Association.

In no event shall the Committee approve any Plans in which the height or setback of the improvements on the Lot violates the limits established by the City of Raleigh.

(a) The plans and specifications which must be submitted to the Committee prior to the alteration of any existing Dwelling Unit on any Lot, as hereinabove provided, shall contain at least the following information:

(i) An as-built survey of the Lot (consisting of the final survey of the Lot, if available) clearly depicting the location, shape and size of the proposed structure; and

(ii) Building plans of the proposed structure which shall include an exterior elevation drawing of the proposed structure; and

(iii) In the case of a proposed alteration to or change in a Dwelling Unit, a description of the proposed alteration or change, including a color and material sample, if applicable; and

(iv) In either case, such additional information as the Committee may require concerning the proposed structure or alteration.

(b) All approvals and disapprovals by the Committee of the plans and specifications for any structure to be constructed or altered on any portion of the Property shall be conclusive and binding upon all Lot Owners.

(c) The Association shall upon demand at any time, furnish to any Lot Owner a certificate in writing signed by an officer of the Association, stating whether any building, wall, patio, playhouse, mail-box or other structure erected upon such Lot Owner's Lot, or any exterior addition to, change in, or alteration of any Dwelling Unit or any other structure owned by such Lot Owner on a Lot, is in compliance with the provisions of this Section, and such certificate shall be conclusive as to whether the same is in such compliance as of the date the certificate was issued.

(d) In the event that any construction or alteration work is undertaken or performed upon any Lot without application having been first made and approval obtained as provided in paragraph (a) of this Section, said construction or alteration work shall be deemed to be in violation of this covenant, and the person upon whose Lot said construction or alteration work was undertaken or performed may be required to restore to its original condition, at its sole expense, the property upon which said construction or alteration was undertaken or performed. Upon the failure or refusal of any person to perform the restoration required herein, the Committee or their authorized agents or employees, may, after fourteen (14) days' notice to such person, enter upon the property upon which such unauthorized construction or alteration work has been performed, and make such restoration as the Committee, in the exercise of its discretion, may deem necessary or advisable. The person upon whose Lot such restoration work shall have been so performed shall be personally liable to the Association for all direct and indirect costs that the Association may incur in the performance of such restoration work, and the liability for such cost shall be secured by all the liens, and shall be subject to the same means of collection, as the Assessments provided for in Article Nine of this Declaration. Such costs shall be paid to the Association by the person liable for the same at the same time as the next due

annual Assessment payment, as provided in Section 9.8 of this Declaration, or at such earlier time, and in such installments, as the Committee shall determine.

Section 4.4 Architectural Control Committee. The Declarant, or if it has not done so, the Board, shall be authorized to appoint the Committee to advise it and assist it in connection with its performance of its responsibilities under Section 4.3 of this Article, and either the Declarant or the Board may replace such Committee members from time to time in accordance with rules promulgated by the Board. The functions that may be performed by the Committee shall include reviewing plans and specifications which are submitted in connection with proposals to construct or alter improvements upon the Lots and to make recommendations with respect to such plans and specifications. The Committee shall also be authorized to promulgate from time to time design guidelines and/or rules and regulations governing construction on or alteration of the Dwelling Units within the Property (the "Architectural Guidelines"), which shall be effective and apply prospectively to new construction, repairs, replacement and maintenance of structures once adopted by the Committee.

Section 4.5 Application of this Article.

(a) This Article shall apply to any additions to the Property subsequently made subject to this Declaration and the terms and provisions of any Supplemental Declaration.

(b) Repainting using an existing paint color, re-roofing, minor repairs, and the like shall not require the approval of the Committee if done or made in accordance with the construction or design guidelines promulgated or adopted by the Committee or the Association.

(c) Notwithstanding anything to the contrary contained herein, the Declarant's construction of improvements on any Lot or on any Common Area shall be exempt from the provisions of this Article. Nothing contained in this Article shall be construed as prohibiting or conditioning any construction by the Declarant upon any Lot or Common Area while such property is owned by the Declarant. The exemption of the Declarant from the provisions of this Article shall survive the termination of the Class B membership.

ARTICLE FIVE
RESTRICTIONS ON USE AND RIGHTS OF THE ASSOCIATION, DECLARANT AND LOT OWNERS

The following restrictions are placed on the Property (including without limitation all Lots and Common Areas) and the use thereof:

Section 5.1 Permissible Uses. No Lot shall be used except for single-family residential purposes allowed under applicable zoning regulations (with the exception of any sale center or model home constructed or used by the Declarant, or his agent who has received the prior written permission of Declarant). The term single-family shall include four unrelated people as provided in the Raleigh City Code. No Lot shall be used for any commercial, business or professional purposes. Specifically, no "Model Home" or "Open House" type of operation

shall be allowed within the Property other than with Declarant's explicit written permission, notwithstanding Declarant's right to operate such "Model Home" or "Open House", at its discretion, anywhere within the Property at any time prior to November 1, 2015. Notwithstanding the foregoing, however, nothing set forth in this Section shall prohibit: (a) the Declarant from conducting such sales, leasing and promotional activities on any Lot or any Dwelling Unit as the Declarant shall determine; or (b) the Lot Owner of any Dwelling Unit from using a portion of such Dwelling Unit as a home office, provided that such use does not create regular customer or client traffic to and from such Dwelling Unit and no sign, logo, symbol, or nameplate identifying such business is displayed anywhere on such Dwelling Unit or Lot.

No building of any type shall be erected, altered, placed, or permitted to remain on any Lot other than a Dwelling Unit and accessory structures that comply with any applicable zoning regulations and the requirements of Articles Four and Five of this Declaration. The Lots within the Property shall be limited to one single-family attached Dwelling Unit and accessory structures with appropriate setbacks approved in accordance with the terms of this Declaration and complying with the requirements of the Raleigh City Code and the site plan for the Property approved by the City of Raleigh.

Section 5.2 General Care and Maintenance. Each Lot Owner shall (a) keep the interior of its Dwelling Unit including, but not limited to, all appliances and utility systems, and the exterior of its Dwelling Unit in a safe condition at all times; (b) permit no unsafe or unsanitary conditions in its Dwelling Unit or on its Lot; (c) comply with any and all obligations imposed upon Lot Owners by applicable laws, statutes, ordinances, rules and regulations of federal, state or municipal governmental authorities, and building and housing codes for the use, occupancy, construction of and maintenance of any improvements upon or within its Lot or Dwelling Unit; and (d) not deliberately or negligently destroy, deface, damage or remove any part of any Dwelling Unit, or the Common Areas, or knowingly permit any person to do so. If a Lot Owner fails to comply with the standards or requirements of the Association relative to maintenance after written notice to do so the Association shall have the right to undertake the necessary maintenance or repairs at the expense of the defaulting Lot Owner, as provided in Section 7.9. (See also Article Eleven.)

Section 5.3 Offensive Activity. No noxious or offensive activity shall be conducted upon any portion of the Property, nor shall anything be done thereon which may be or may become an embarrassment, discomfort, annoyance or nuisance to any other Lot Owner, tenant or guest thereof or which may endanger the health or safety of any other Lot Owner, tenant or guest thereof within the Property.

Section 5.4 Noise and Disorderly Conduct. No Lot Owner shall engage in any disorderly conduct on the Property, or cause or allow any disturbance, including, but not limited to, shouting, singing, or playing any musical instruments, radio, stereo, or television, in a manner that unreasonably disturbs any other Lot Owner within the Property.

Section 5.5 Fire Hazards. No Lot Owner shall make any alterations to its Dwelling Unit or bring or keep anything therein which will increase the risk of fire, conflict with fire laws

or the regulations of the applicable governmental entity, or increase the premiums of any insurance policy on the Buildings or portions thereof on the Property maintained by the Association.

Section 5.6 Rubbish. All trash, garbage and other waste shall be kept in clean and sanitary containers within each Dwelling Unit or appropriate containers on the Lot but which shall be screened from public view except on garbage collection days. Each Lot Owner shall be responsible for placing such garbage in a roll-out container and rolling the container out to the designated trash pick-up area on a regular basis for its Lot.

Section 5.7 Animals. No livestock, poultry or other animals shall be kept or maintained in any Dwelling Unit or on any Lot, except for a reasonable number of common household pets, such as cats and dogs which otherwise comply in all respects with the provisions of this Declaration. No pets may be kept or bred for any commercial purposes, and no savage or dangerous pets may be kept on the Property. All pets shall be controlled so as not to create a nuisance or unreasonable disturbance (including loud and excessive barking) on the Property. All pets must be housed inside a Dwelling Unit, and no pet shall be permitted upon the Common Area unless carried or leashed by a person that can control the pet. Pets shall not be permitted to defecate in the Common Area, or urinate on the shrubbery, and each Lot Owner shall clean up immediately after its pet if an accident occurs. All pets shall be registered and/or inoculated as required by law. Each Lot Owner shall hold the Association harmless from any claim resulting from any action of its pet, and shall repair at its expense any damage to the Common Area caused by its pet. If any Lot Owner violates these rules more than twice in any twelve (12) month period, then in addition to any fines provided in the Bylaws, the Association shall have the right to require the Lot Owner to remove the pet permanently from the Property upon not less than ten (10) days' written notice.

Section 5.8 Decks; Patios; Porches. Any deck, patio or porch that is a part of any Dwelling Unit shall be kept in a clean, neat, and orderly condition at all times, and shall not be used for the overnight storage of garbage, or for the drying of laundry. In particular, towels, blankets, sheets or banners shall not be hung on the deck, porch or balcony railings, and any dead plants shall be removed promptly. No indoor-outdoor carpeting, hot tub, or other pool shall be installed on any deck, patio or porch. Any furniture on the deck, patio or porch shall be appropriate outdoor furniture and shall be maintained in a neat, tidy, and good condition. If permitted by applicable building codes and zoning ordinances, a Lot Owner may use or store a cooking grill on a rear deck, patio or porch, but such Lot Owner shall be responsible for complying with all applicable laws, ordinances, and regulations in connection with such storage and use. All other personal property (such as bicycles, lawn care equipment and recreational equipment) shall be stored inside a Dwelling Unit.

Section 5.9 Signage. No commercial signs or billboards of any kind (except one sign per Lot of not more than four square feet containing the words "for rent" or "for sale" and located in the window of the affected Dwelling Unit, provided, however, that in no event shall such "for sale" or "for rent" sign be permitted until such time as the last Lot within the Property has been conveyed by Declarant) shall be displayed in public view on any Lot, facility, appurtenance, short

or long term parked vehicle, accessory building or structure unless approved by the Committee, who may also from time to time provide design criteria and color schemes for approved signage. Notwithstanding the foregoing, the Declarant, subject to the regulations or ordinances promulgated by the City of Raleigh, shall have the right to locate sign or signs indicating the location of sales and rental centers, identify model homes or living units, any Facilities and such other informational signs of any type as may be necessary or desirable, in Declarant's sole opinion, to facilitate Declarant's plans for development and sales at the Community. The provisions of this Section shall not prevent the placement of permanent signs identifying the Property at its entrances. The provisions of this Section shall not prohibit small signs customarily incidental to residential use, subject to reasonable rules and limitations established by the Board or the Committee.

Section 5.10 Fences. No fence, wall or patio enclosure shall be erected, maintained or permitted upon the Property, other than those installed by Declarant prior to the initial conveyance of each Lot.

Section 5.11 Clotheslines. No clothesline of any type shall be placed, used or allowed to remain on any Lot.

Section 5.12 Use of Common Area in General. No Lot Owner shall obstruct the entrances, streets, sidewalks, driveways, parking areas and other facilities in the Common Area in any way, or use them for other than their intended purposes. The Common Area shall not be used for the storage of supplies, personal property or trash or refuse of any kind except in Common Area trash receptacles placed at the discretion of the Board. There shall be no bicycles, tricycles, wagons, toys or other miscellaneous personal property parked or left in the Common Area at any time. All bicycles shall be parked in the area designated for bicycles. In general, no activity shall be carried on nor conditions maintained by any Lot Owner either in its Dwelling Unit, on its Lot or upon the Common Areas which despoils the appearance of the Property.

Section 5.13 Vehicles; Parking. All vehicles must be parked in garages or driveways on the Lots in parking spaces designated by the Association, and must not obstruct or interfere with the ingress or egress of others. All parking in the Common Areas shall be on a first-come, first served basis, and subject to any rules or regulations that may be promulgated by the Association. No house trailer or mobile home, school bus, truck or commercial vehicle over three-fourths (3/4) ton capacity or having ladder or pipe or similar racks or utility beds, boat or boat trailer, motor home, camper, or van (not to include passenger vans for non-commercial use), junked or wrecked vehicle, or vehicle on blocks shall be kept, stored or parked overnight either on any street or Common Area or on any Lot. The foregoing will not be interpreted, construed or applied to prevent the temporary non-recurrent parking of any non-commercial vehicle, boat or trailer for a period not to exceed forty-eight (48) hours upon the private streets within the Property so long as such on-street parking does not obstruct or interfere with the ingress or egress of others. Nor shall the foregoing be interpreted, construed or applied to prevent Declarant from locating construction and/or sales trailers within the Property as necessary. No significant automobile repair shall be allowed on the Property. The Association shall have the right to tow any vehicle in violation of this Section at its owner's expense.

Section 5.14 Division of Lots; No Time Sharing; Leasing.

(a) No Lot shall be further subdivided into multiple Dwelling Units.

(b) No Lot or ownership interest may be subdivided to permit time sharing or other devices to effect interval ownership unless approved by the Association subject to conditions which may be imposed by the Association. For purposes of this Section "time sharing" or "other devices to effect interval ownership" shall include, but not be limited to, ownership arrangements, including uses of corporations, trusts, partnerships, leases or tenancies in common, in which four or more persons or entities, not members of a single household, have acquired, by means other than will, descent, inheritance or operation of law, an ownership interest (directly or indirectly, equitable or legal) in the same Dwelling Unit and such owners have a formal or informal right-to-use or similar agreement.

(c) Leasing of a residence is permitted, provided that the minimum term of the lease shall be six (6) months; provided, however, that any Lot Owner, including Declarant, may rent a Dwelling Unit for a period of less than six (6) months to a bona fide contract purchaser who is legally obligated to acquire title to such Dwelling Unit within such six (6) month period. Subject to the foregoing restrictions, a Lot Owner shall have the right to lease its Dwelling Unit; provided that said lease is in writing and (pursuant to a standard lease rider furnished by the Association) is made subject to all provisions of this Declaration, including (but not limited to) the Bylaws of the Association, the Rules and Regulations and the other documents referred to herein and therein; and provided further that any failure of such lessee to comply fully with the terms and conditions of such documents shall constitute a default under such lease. Copies of all leases must be furnished to the Association prior to the commencement of the term thereof. No leasing shall, however, relieve a Lot Owner from its obligations hereunder and such Lot Owner shall remain primarily responsible for compliance with this Declaration, the Bylaws and the Rules and Regulations. The Association shall have the authority to impose fines, for which the Lot Owner and tenant shall be jointly and severally liable, for any such violations of the Declaration, Bylaws or Rules and Regulations. In the event that a tenant of a Dwelling Unit fails to comply with any of the provisions of this Declaration, the Bylaws or the Rules and Regulations then, in addition to all other remedies which it may have, the Association may notify the Lot Owner of such violation(s) and demand that the same be remedied through the Lot Owner's efforts within thirty (30) days after such notice. If any such violation is not remedied within such thirty (30) day period, then the Lot Owner shall immediately thereafter, at its own cost and expense, institute and diligently prosecute an eviction action against his tenant on account of such violation(s). Such action shall not be compromised or settled without the prior written consent of the Association. In the event that the Lot Owner fails to fulfill the foregoing obligation, then the Board shall have the right, but not the duty, to institute and prosecute such action as attorney-in-fact for the Lot Owner and at the Lot Owner's sole cost and expense, including all legal fees and costs incurred. Any such fines assessed or costs and expenses incurred in accordance with this Section shall be due and payable upon demand by the Association and shall be deemed to constitute a lien on the particular Lot involved, and collection thereof may be enforced by the Board in the same manner as the Board is entitled to enforce collection of Assessments.

Section 5.15 Exterior Restrictions. Except as in accordance with the Rules and Regulations, nothing shall be hung, painted or displayed on the outside of the windows (or inside, if visible from the outside) or placed on the outside walls or outside surfaces of doors of any of the Dwelling Units, and no awnings, canopies or shutters (except for those heretofore or hereinafter installed by Declarant) shall be affixed or placed upon the exterior walls or roofs of Dwelling Units, or any part thereof, nor relocated or extended, without the prior written consent of the Committee. Notwithstanding the foregoing, blinds, curtains, window shades and the like shall be permitted within a Dwelling Unit without prior Committee approval so long as that portion of such blinds, curtain and window shades visible from the outside is in compliance with the Rules and Regulations. Window air conditioners are prohibited. Notwithstanding the foregoing, Declarant shall have the right to display signs for promotional sales, exhibits, direction and administrative purposes upon any portion of the Common Area and on or in any Lot or Dwelling Unit owned or leased by it.

Section 5.16 Antennas. No antennas, aerials, satellite dishes or other receptive devices having a diameter or diagonal measurement greater than one meter shall be installed on any Common Area, Lot, or Dwelling Unit. So long as reception of an acceptable quality is not precluded, the antenna, aerial, satellite dish or other reception device having a diameter of appropriate size shall be located only on that portion of a Lot which is least visible from public view and shielded so as to minimize any risk and to ensure a nuisance is not created.

Section 5.17 Garages. Each two-car garage constructed on each Lot shall maintain its character as a garage, and shall be used for parking and other typical garage purposes. The two-car garages may not be enclosed, or otherwise refurbished, and used as living space.

Section 5.18 Unsightly Conditions. It is the responsibility of each Lot Owner to prevent any unclean, unsightly or unkept conditions to exist on his Lot, Dwelling Unit, or grounds which shall tend to decrease the beauty of the Property, specifically or as a whole.

During the construction or maintenance of any improvement to a Lot in the Property, the Lot, roads, bike paths, landscaping and Common Area 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. Notwithstanding the foregoing, Declarant shall be exempt from the requirements of the preceding sentence during the initial construction of improvements by the Declarant (the "Initial Construction of Improvements"). Any damage to the street, curb, sidewalk or to any part of any Common Area or utility system caused by a Lot Owner or a Lot Owner's contractor shall be repaired by such Lot Owner. Lot Owners and their agents and employees shall adhere to the construction standards promulgated from time to time by the Association.

In the event the Lot Owner or his agent or employee (including, without limitation, any contractor or subcontractor) shall fail to maintain the Lot or Dwelling Unit, and adjoining areas, as specified herein, or allow damage to occur 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 unsightliness, make needed repairs, and to remove any rubbish, refuse, unsightly debris and/or growths from the Lot or Dwelling Unit, 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 Lot Owner to the Association and will become a continuing lien on the Lot until paid.

Notwithstanding anything to the contrary or apparently to the contrary herein, the Declarant shall be exempt from the provisions set forth in this Section.

Section 5.19 Other Use Restrictions. In accordance with Section 1.2 hereof, a Supplemental Declaration may set forth additional use restrictions that will apply to the Property.

Section 5.20 Retaining Walls. The Association shall have the obligation to maintain, repair and replace all retaining walls located within the Property, regardless of whether such retaining walls (or any part thereof) are located on a Lot. In the event that any retaining wall or portion thereof is located on a Lot, the Association shall have a perpetual easement over such portions of such Lot to allow the Association, its agents, or contractors to complete any necessary maintenance, repair or replacement to such retaining wall.

ARTICLE SIX
ADDITIONAL RIGHTS RESERVED TO DECLARANT

Section 6.1 Intentionally Deleted.

Section 6.2 Right to Develop. After the conveyance of Common Areas to the Association, the Declarant and its employees, agents, contractors and designees shall have a right of access and use and an easement over and upon all of the Common Areas for the purpose of making, constructing and installing such improvements to the Common Areas as it deems appropriate in its sole discretion. Damage done to the Common Areas shall be repaired, restoring the Common Area to its original condition, to the extent such repair and restoration is reasonably practicable.

Every person that acquires any interest in the Property, by acceptance of a deed made subject to this Declaration or recorded after this Declaration, acknowledges that the Community is a master planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge or otherwise object to (a) changes in uses or density of property outside the Townhomes in which such person holds an interest, or (b) changes in the site plan filed with the County of Wake and the City of Raleigh in connection with the Property as it relates to property outside the Community. Although it is Declarant's intention to develop the Community in accordance with approved site plans, Declarant shall have the right, without the consent or approval of the Lot Owners to develop the Community at its own pace, in phases, in any order, add Common Area, increase the number of Dwelling Units, change Dwelling Unit types and alter the site plan with approval of governmental authorities.

Section 6.3 Right to Transfer or Assign Declarant Rights. Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred in whole or in part to other persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the Bylaws. Except for any Declarant rights that automatically transfer to the Association pursuant to the terms hereof, no such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Wake County Registry. The foregoing sentence shall not preclude Declarant from permitting other persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record a written assignment necessary to evidence Declarant's consent to such exercise.

Section 6.4 Marketing. Until such time as the last Lot is conveyed by Declarant, Declarant shall be entitled to operate one or more "model" homes within the Property (including within any unsold Dwelling Unit) and to otherwise engage in all reasonable activities intended to market and sell Dwelling Units, including, without limitation, locating marketing and directional signs and flags within the Property and locating construction and sales trailers within the Property. Declarant shall have the right to use, without charge, any portion of the Common Area for sales, management, marketing and construction purposes with respect to the Dwelling Units located or to be located within the Property; provided that such use shall not unduly interfere with the use of the Common Area by the Members for the purposes for which they are reasonably intended. Such right shall continue until Declarant no longer owns any Lots in the Property or until expiration of ten (10) years from the date of recording of this Declaration, whichever event first occurs. Declarant shall not locate within the Common Area more than twenty-five (25) sales trailers or construction trailers (in any combination) at any one time, situated at various locations throughout the Property.

Section 6.5 Right to Redesignate Certain Property. The Declarant, until one year after the last termination of Class B membership, hereby reserves for itself and its successors and assigns the right to redesignate property types or boundary lines shown on a Recorded Plat by recording a new Recorded Plat showing such changes and executed by the Declarant or its successors or assigns and any Lot Owners of property redesignated or for which the boundary line is thereby changed.

ARTICLE SEVEN
MEMBERSHIP; VOTING RIGHTS IN THE ASSOCIATION
RIGHTS AND RESPONSIBILITIES OF THE ASSOCIATION

Section 7.1 Membership. Membership in this Association shall be governed by the provisions of Section 17.A.6(a) of this Declaration.

Section 7.2 Voting Rights. The Association shall have two (2) classes of voting memberships:

(a) Class A. The Class A Members shall be all Lot Owners of Lots within the Property, other than the Declarant as long as Class B membership exists. Any Class A Member in the Property shall be entitled to one (1) vote for each Lot which it owns. In the case of multiple ownership of any Lot, however, those multiple Lot Owners shall be treated collectively as one Lot Owner.

(b) Class B. The Class B Member shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned by it within the Property. The Class B membership shall cease and be converted to Class A membership on the happening of the first to occur of the following events:

(i) Declarant has sold and closed the sale of eighty-four percent (84%) of all Lots within the Property, or

(ii) November 1, 2015, or

(iii) Declarant voluntarily surrenders control of the community to the Association by written notice.

If the Class B membership has been terminated or has expired and subsequently additional properties owned by the Declarant become subject to this Declaration pursuant to Section 1.2 prior to the date stated in subsection (ii) above, the Class B membership shall immediately be reinstated as of the date such additional properties become subject to this Declaration and shall not terminate except in accordance with subsection (i) and (ii) above as they apply to the Property as expanded by such annexation. Following the termination of Class B membership, the Declarant shall become a Class A member.

Section 7.3 Voting; Proxies.

(a) If only one of the multiple Lot Owners of a Lot is present at a meeting of the Association, the Lot Owner who is present is entitled to cast all the votes allocated to that Lot. If more than one of the multiple Lot Owners are present, the votes allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the multiple Lot Owners. Majority agreement is conclusively presumed if any one of the multiple Lot Owners casts the votes allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other Lot Owners of the Lot. If the Board cannot in good faith determine the majority vote of a Lot owned by multiple Lot Owners, then that Lot's vote need not be counted at the meeting for any issues for which the majority vote cannot be determined.

(b) Votes allocated to a Lot may be cast pursuant to a proxy duly executed by a Lot Owner. If a Lot is owned by more than one person, each Lot Owner of the Lot may vote or register protest to the casting of votes by the other Lot Owners of the Lot through a duly executed proxy. A Lot Owner may not revoke a proxy given pursuant to this Section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated.

(c) No votes allocated to a Lot owned by the Association may be cast.

(d) See Section 17.A.6 of this Declaration for additional provisions regarding voting generally and proxies.

Section 7.4 Rights and Responsibilities of the Association. Subject to the provisions as set forth in this Declaration, the Association has exclusive management and control of the Common Areas and all improvements thereon and all furnishings, equipment and other personal property relating thereto. The Association's duties with respect to such Common Areas include, but are not limited to, the following:

(a) maintenance of the Common Areas;

(b) management, operation, maintenance, repair, servicing, replacement and renewal of all landscaping, improvements, equipment, and personal property constituting part of the Common Areas or located upon the Common Areas so as to keep all of the foregoing in good, clean, attractive, sanitary, safe and serviceable condition, order and repair;

(c) all landscaping of the Common Areas;

(d) maintenance of adequate public liability insurance, in an amount not less than $1,000,000 per occurrence insuring the Association and its officers and directors, and adequate property casualty or hazard insurance with a minimum replacement value of one hundred percent (100%) after application of any deductibles, for the benefit of the Association with respect to the Common Areas;

(e) payment of all taxes and assessments validly levied, assessed or imposed with respect to the Common Areas owned in fee simple by the Association;

(f) maintenance of private streets and recreational and other facilities located on the Common Areas;

(g) payment of assessments for public and private capital improvements made to or for the benefit of the Common Areas;

(h) procurements and maintenance insurance as required under Article Ten or Section 17.A.9 of this Declaration;

(i) maintenance to be performed pursuant to Article Eleven;

(j) ownership, management, operation, maintenance, repair and servicing of utility lines, including, but not limited to, water, electricity, gas, telephone, television, cable and sewer pipes located within the Common Area to the extent such utility lines are not owned and maintained by the utility companies or the City of Raleigh, as appropriate;

(k) maintenance of all Public Pedestrian Easements located within the Community, regardless of whether such easements are located on a Lot or on Common Area, which maintenance shall include removal of obstructions from the Public Pedestrian Easement; and

(l) maintenance, repair and replacement of any retaining wall located within the Community, regardless of whether such retaining wall is located on a Lot or on Common Area.

During the existence of Class B membership, the insurance as required in subsection (d) above may be provided by a self-insurance program maintained by the Declarant.

The Association may in its discretion also provide other services as and to the extent the Association deems appropriate, such as, but not limited to, security services or devices, including but not limited to operation of the entry guard house and any other security gates, security personnel and overall traffic control.

Section 7.5 Construction of Streets and Roads. The Declarant is responsible for construction of streets and roads within the Property. Upon the completion of construction of the streets and roads and conveyance of such roads to the Association, the Association shall be required to undertake the management, operation, maintenance, repair, servicing, replacement and renewal of any private streets and roads constituting Common Area 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, if such streets and roads are intended to be public. Following any irrevocable acceptance of the streets and roads for maintenance as public rights of way by applicable governmental entities, the maintenance obligations of the Association for the streets and roads shall only be to the extent such activities are not performed by the applicable governmental entities.

Section 7.6 Third-Party Services. The Association may obtain and pay for the services of any person or firm to manage its affairs to the extent the Board deems advisable, as well as such other person or firm as the Board determines is necessary or desirable, whether such person or firm is furnished or employed directly by the Association or by any person or firm with whom it contracts. Any management contracts executed by the Association during the period of Class B membership shall have a 90-day termination clause. Without limitation, the Board may obtain and pay for legal, accounting, engineering or other professional services necessary or desirable in connection with the Common Areas or the enforcement of this Declaration, the Association's Articles of Incorporation, Bylaws, rules or regulations.

The Association may, acting through its Board, contract with other residential associations or commercial entities, neighborhoods or clubs to provide services or perform services on behalf of the Association and its Members. In addition, the Association may contract with other residential associations or commercial entities, neighborhoods or clubs within the

Community to provide services in or perform services on behalf of such other associations, neighborhoods or clubs.

Section 7.7 Ownership By the Association. The Association may acquire, hold, exchange and dispose of real property and tangible and intangible personal property, subject to such restrictions as from time to time may be contained in this Declaration, the Association's articles of incorporation or the Bylaws.

Section 7.8 Rules and Regulations. The Association, from time to time, may adopt, alter, amend, rescind and enforce reasonable rules and regulations relating to the Property, including without limitation, rules and regulations governing the use and operation of the Common Areas, which rules and regulations shall be consistent with the rights and duties established by this Declaration (the "Rules and Regulations"). The validity of the Association's rules and regulations, and their enforcement, shall be determined by a standard of reasonableness for the purpose of protecting the value and desirability of the Property.

Section 7.9 Non-Performance By Lot Owner. The Association may perform any duty required of an Lot Owner hereunder or under the Bylaws and assess the costs thereof against the Lot Owner's Lot(s), as a Special Individual Assessment in accordance with the provisions of Section 9.5 hereof. The Association shall first provide thirty (30) days' written notice to the Lot Owner of its intention to perform such duties and charge the Lot Owner for the cost thereof, and it shall so perform the duties and charge the Lot Owner for the cost thereof only if the duties are not fully performed at the end of the 30-day period.

Section 7.10 Landscaping. The Association may provide for or perform itself the services of landscaping and maintenance of right-of-way dedication areas on or adjacent to the Property so as to ensure an aesthetically pleasing and uniform look along roads, streets, rights-of-way, or Common Areas that are within or adjacent to the Property. Expenses of the Association in performing these tasks, should the Association choose to assume responsibility for these tasks, shall be a Common Expense.

Section 7.11 Limits on Litigation of the Association. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the Members. This Section shall not apply, however, to (a) actions brought by the Association to obtain injunctive relief to enforce the provisions of this Declaration, (b) the imposition and collection of assessments as provided in Section 9.1, 9.4, 9.5, 9.8 and 9.10 and (c) proceedings involving challenges to ad valorem taxes. This Section shall not be amended unless such amendment is so made by the Declarant or is approved by a vote of seventy-five percent (75%) of the Members.

ARTICLE EIGHT
PROPERTY RIGHTS IN THE COMMON AREAS

Section 8.1 Members' Easements of Enjoyment. Subject to the provisions of Section 8.3, every Member shall have a right and easement of enjoyment to all of the Common

Areas and the Facilities. If necessary because of a lack of access across public streets or rights-of-way to Common Area and Facilities, every Member shall also have an easement of not less than ten (10) feet wide, which may be shown on a Recorded Plat, for access, ingress, and egress to and from streets, parking areas and walkways or pedestrian walkways in and to all of the Common Area and the Facilities. The foregoing easements shall be appurtenant to and shall pass with the title to every Lot in the Property. In the event any utility lines serving a Lot cross Common Area, every Lot Owner whose utility lines cross such Common Area shall have a non-exclusive right and easement of use across such Common Area that supports such utility lines and such easement shall be appurtenant to and shall pass with the title to such Lot in the Property.

Section 8.2 Delegation of Use. Subject to the provisions of Section 8.3, any Lot Owner may delegate its rights of enjoyment of the Common Areas and the Facilities to the members of its family, its tenants, contract purchasers who reside on the property, or its guests.

Section 8.3 Title to Common Areas. Upon conveyance of the Common Areas by the Declarant to the Association, the Association shall not subsequently subdivide or convey the Common Areas, except as follows:

(a) The Association may convey or mortgage the Common Areas with the consent of at least eighty percent (80%) of the votes of the Association, who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall have been sent to all Members in accordance with the provisions of the Bylaws for such special meeting. In the event the Association votes to mortgage all or any part of the Common Areas, the rights of the mortgagee must be subordinated to the rights of the Lot Owners and the Association.

(b) In the event the Association is dissolved, the Common Areas shall be first offered to the City of Raleigh in fee simple. If the City of Raleigh refuses such property, then it shall be offered to another nonprofit organization that shall agree to maintain it.

(c) In the event that it is determined by the Declarant and the Association Board that the Common Areas were conveyed to the Association by mistake, upon the request of the Declarant, the Association shall convey the Common Areas back to the Declarant without the necessity of a vote by the Members.

(d) The Association may exchange Common Areas for other properties when the conditions for Open Space exchange described in Section 17.D.1(c) of this Declaration.

Conveyance of Common Areas to the Association shall be made subject to the right of the Declarant to construct common improvements or complete construction thereof, as applicable, on the Common Areas. The right of Declarant to construct or complete construction of such improvements shall terminate three (3) years after the termination of Class B membership. (See also Section 17.A.16 of this Declaration regarding conveyance or dedication of Common Areas.)

Section 8.4 Extent of Members' Easements. The rights of Members of the

Association shall in no way be altered or restricted because of the location of Common Areas in any additions to the Property in which such Member is not a resident. The use of Common Areas belonging to the Association shall be a membership entitlement. The rights and easements of enjoyment created herein shall be subject, however, to the following:

(a) the right of the Declarant, in its sole discretion, to grade, pave or otherwise improve any road, street or Public Pedestrian Easement shown on any Recorded Plat, and the right of Declarant to install any intended infrastructure in or on a Common Area after conveyance of such Common Area to the Association;

(b) the right of the Association to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Areas, including the right to limit the number of guests, to regulate hours of operations and behavior, and to curtail any use or uses it deems necessary for either the protection of the Facilities or the peace and tranquility of adjoining residents;

(c) the right of the Association, as provided in its Articles of Incorporation or Bylaws, to suspend the enjoyment rights of any Member for any period during which any assessment of that Member remains unpaid, and for any period not to exceed sixty (60) days for any infraction of any published rules and regulations adopted by the Board;

(d) the right of the Association to lease and use any of the Common Areas for functions, lessons, or special events and to allow the lessee to charge admission or other fees for functions, lessons, or special events;

(e) subject to any governmental regulations, the right of the Association or its assignee to charge reasonable admission and other fees for use of any of the Association's Facilities situated upon its Common Areas; and

(f) the right of the Association to dedicate or transfer all or any part of the Common Areas (which includes streets and roads) or private water/sewer lines to any public agency, authority or utility (public or private) for such purposes and subject to such conditions as may be agreed to by the Members. Except as provided below, no such dedication or transfer shall be effective unless the Declarant and the Members entitled to cast at least eighty percent (80%) of the Class A votes agree to such dedication or transfer and signify their agreement by a document certified by the Association that a vote was taken at a duly called meeting and that sufficient assent for the dedication or transfer was had and recorded in the Wake County Registry; provided that, notwithstanding the foregoing, the Declarant (during Class B membership), and thereafter, the Association shall each have the right, power and authority to grant easements and rights-of-way for the installation and maintenance of drainage facilities and of utilities, whether private, public or quasi-public, including cable television, water, gas and sewer upon, over, under and across any Common Area, without the assent of the Members when, in the sole opinion of the Declarant or the Board, as applicable, such easements are required or reasonably necessary for the development and/or the convenient use and enjoyment of the Property and, in the sole opinion of the Declarant or the Board, as applicable, will not

unreasonably interfere with the overall use and enjoyment of the Common Areas; and provided further this Subsection shall not preclude the Board from conveying at such purchase price as the Board deems appropriate strips or portions of the Common Areas to any Lot Owner in order to resolve any gap, gore, overlap or other boundary line conflict or to make the Lot more usable as a homesite provided such conveyance does not in the good faith judgment of the Board adversely affect the overall use and enjoyment of the Common Areas.

Section 8.5 Conveyance or Encumbrance of Common Areas. Portions of the Common Area may be conveyed or subjected to a security interest by the Association if at least two-thirds (2/3) of the Class A Members consent and with the affirmative vote of at least eighty percent (80%) of the total votes in the Association, made in writing and kept on file with the Association for at least five (5) years. Proceeds of the sale or financing of a Common Area shall be an asset of the Association. The Association, on behalf of the Lot Owners, may contract to convey Common Area or subject it to a security interest, but the contract is not enforceable against the Association until approved by the Members as described herein. Thereafter, the Association has all powers necessary and appropriate to effect the conveyance or encumbrance, free and clear of any interest of any Lot Owner or the Association in or to the Common Area conveyed or encumbered, including the power to execute deeds or other instruments. Any purported conveyance, encumbrance, or other voluntary transfer of Common Area, unless made pursuant to this Section, is void. No conveyance or encumbrance of Common Area pursuant to this Section may deprive any Lot or Dwelling Unit of its rights of access and support.

Section 8.6 Private Roads. In the development of the Property, the Declarant may construct certain private streets or roads within the Property connecting parcels of the Property to public rights of way. The Lot Owners shall have a perpetual, non-exclusive easement but no more than an easement for vehicular or pedestrian ingress and egress for themselves, their tenants, family members, contract purchasers, guests, agents, employees, representatives, invitees and assigns over such private streets and roads to and from all portions of the Property, and there shall be no public rights of any kind therein, unless approved by the Members in accordance with the provisions of Section 8.3. Declarant reserves the right to name and revise from time to time the names or other designations given to such private streets or roads. Subject to the approval of the Raleigh Planning Department, the Declarant reserves the right to name and revise from time to time the names or other designations given to such private streets or roads. In no case shall the City of Raleigh be responsible for failing to provide emergency or regular fire, police, or other public service to the Property or the Lot Owners, their guests or tenants, when such failure is due to lack of access to such areas due to inadequate design or construction, blocking of access routes, inadequate maintenance, or any other factor within the control of the Declarant, the Association, or the Lot Owners. In no case shall the City of Raleigh or the State of North Carolina be responsible for maintaining any private street. Such responsibility shall rest with the Association and the Lot Owners in that such private streets will not be inspected by the City to ensure that they were constructed to the minimum standards sufficient to allow their inclusion for public maintenance. The Association shall also be responsible for any curbs, gutters, storm drains and the like associated with the private streets.

ARTICLE NINE
COVENANT FOR PAYMENT OF ASSESSMENTS

Section 9.1 Creation of the Lien and Personal Obligation for Assessments. Each Member, other than the Declarant, who is the Lot Owner of any Lot, by acceptance of a deed therefor, and all other Members, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to and does hereby covenant and agree to pay as limited below, to the Association:

(a) annual assessments or charges as herein or in the Bylaws provided;

(b) special assessments for capital improvements (such annual and special assessments to be fixed, established, and collected from time to time as herein or in the Bylaws provided);

(c) Special Individual Assessments, as defined and described in Section 9.5;

(d) working capital assessments of Five Hundred Dollars ($500.00), due and payable by the grantee at the time such Lot is conveyed by the Declarant; and

(e) any other assessments authorized by the Raleigh Code Article.

The annual and special Assessments and any Special Individual Assessments of a Lot Owner and any fines, liquidated damages or summary charges as herein or in the Bylaws provided, together with such interest thereon and costs of collection thereof as herein provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person or persons jointly and severally, who is (are) the Lot Owner(s) of such properties at the time when the Assessment fell due. Payment of the working capital assessment shall not reduce the annual assessment.

Section 9.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, access, maintenance of property values, security, safety and welfare of the residents of the Property and other Members, and in particular for:

(a) improvement, maintenance, and replacement of any of the Association's Common Areas including, without limitation, the Facilities;

(b) payment of the Common Expenses;

(c) implementation and enforcement of proper maintenance of exteriors of Dwelling Units and related improvements on improved Lots in the Property, if necessary, subject

to reimbursement by the Lot Owner(s) of such property pursuant to Sections 11.1 and 11.2 of this Declaration;

(d) establishment of capital replacement reserves, including reserves established to enable the Property to fulfill its obligations under the Maintenance Agreement while the Maintenance Agreement is in effect; and

(e) acquisition of services and facilities devoted to the foregoing purposes or for the use and enjoyment of the Association's Common Areas, including but not limited to, the cost of repairs, replacements, additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against those Common Areas, the procurement and maintenance of insurance related to those Common Areas, its recreational facilities and use in accordance with the Bylaws, the employment of attorneys to represent the Association if necessary, and such other requirements as are necessary to perform all of the aforesaid functions and purposes.

Section 9.3 Assessment of Uniform Rates within Different Categories or Forms of Ownership. Both annual and special Assessments shall be fixed at uniform rates for each Dwelling Unit and vacant Lot within the Property. Except as specified in Sections 9.13 and 9.14, there will be no difference between assessments as to vacant Lots or between assessments as to Dwelling Units.

Section 9.4 Special Assessments for Capital Improvements.

(a) In addition to the regular annual Assessments, the Association may levy in any assessment year, a special Assessment, applicable to that year only, for the purpose of, without limitation, defraying, in whole or in part, the cost of professional or consulting fees, any construction or reconstruction, unexpected repairs or replacement of any capital improvement (including, without limiting the generality thereof, any lake, waterway, or pond) located upon the Association's Common Areas (in the discretion of the Association), including the necessary fixtures and personal property related thereto, or for satisfying the Property's obligations (as "Lot 2" thereunder) under the Maintenance Agreement while such agreement is in effect, if the Board deems it imprudent or impossible to satisfy such obligations from the Association reserves, provided that if any such special Assessment that is to be assessed against all Lot Owners in the Properties exceeds Sixty Dollars ($60.00) per year, such special Assessment shall require the consent of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall have been sent to all Members in accordance with the provisions of the Bylaws for such special meetings. Any such special Assessment up to but not exceeding Sixty Dollars ($60.00) shall not require the consent of the Members. The Sixty Dollar ($60.00) limit herein applies for the first five (5) years after this Declaration has been recorded and shall increase by the United States cost of living adjustment each year thereafter.

(b) In addition to the foregoing special Assessment approved by the Members, as described in the preceding paragraph, the Association may levy a special Assessment, in the

event of emergencies in which the Association perceives a threat to persons or to property, without the consent of the Members. The amount of such Assessment, however, may not exceed Thirty Dollars ($30.00) per Lot Owner per year in the first five (5) years after this Declaration is recorded, but such maximum limitation on the assessment amount shall rise each year thereafter by the United States cost-of-living adjustment for such year.

Section 9.5 Special Individual Assessments. In addition to the regular annual Assessments and the special Assessments for capital improvements described above, the Association may levy, from time to time, on a particular Lot rather than on all Lots or types of Lots in the Property, special individual Assessments, immediately due and payable, consisting of any fines assessed by the Association under authority contained herein or in the Bylaws for a Lot Owner's violations of the terms and conditions of this Declaration, any liquidated damages or summary charges imposed under authority contained in the Bylaws, together with costs, fees and expenses (including reasonable attorneys' fees) incurred by the Association incidental to the enforcement of any rules and regulations, the collection of Assessments (both annual and special) or the collection of damages or charges arising under the Bylaws, all of the foregoing of which shall comprise "Special Individual Assessments".

Section 9.6 Application of Surplus Funds. Any surplus funds of the Association remaining after payment of or provision for Common Expenses (including expenses for special Assessments described in Section 9.4 hereof), the funding of a reasonable operating expense surplus, and any prepayment of reserves (as established by the Board or as otherwise required by law), shall be paid to the existing Lot Owners in proportion to their Commons Expense liabilities or credited to them to reduce their future Assessments for Common Expenses, the election of which application of the funds shall be made by the Board.

Section 9.7 Quorum for any Action Under Sections 9.4 and 9.14. The quorum required for any action authorized by Sections 9.4 and 9.14 hereof shall be as follows:

At the first meeting called as provided in Section 9.9, the presence at the meeting of Members, or of proxies, entitled to cast a majority of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at such meeting, another meeting may be called, subject to the notice requirement set forth in Section 9.9, and the required quorum at any such subsequent meeting shall be one-half (½) of the required quorum of each class of Member at the preceding meeting, provided that no such subsequent meeting shall be held more than fifty (50) days following the preceding scheduled meeting.

Section 9.8 Date of Commencement of Annual Assessment: Due Dates. The regular annual Assessments provided for herein shall be paid (as determined by the Board) in monthly, quarterly, semiannual, or annual installments. The payment of the regular annual Assessment by Lot Owners shall commence as to each Lot on the first day of the month following the conveyance of that property by the Declarant. The first regular annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual Assessment at least fifteen (15) days in advance of each regular annual Assessment period. Written notice of the regular annual Assessment shall be sent to every Member subject thereto. The due dates shall be established by the Board. The Association, upon

any qualified demand (as determined by the Board) at any time, shall furnish a certificate in writing signed by an officer of the Association setting forth whether any specific Assessment has been paid. Such properly executed certificate of the Association as to the status of the Assessment is binding upon the Association as of the date of its issuance.

The first Assessments levied against any additions to the Property not now subject to Assessment, at a time other than the beginning of any Assessment period, shall be an amount which bears the same relationship to the regular annual Assessment as the remaining number of months in that year bear to twelve.

The due date of any special Assessment under Section 9.4 or any other Assessments permitted by the Declaration shall be fixed in the resolution or resolutions authorizing such Assessment.

Section 9.9 Duties of the Board. The Board shall fix the date of commencement, and shall fix the amount of the Assessment or Assessments against each Member, for each Assessment period, at least fifteen (15) days in advance of such date or period and shall, at that time, prepare a roster of the Members and Assessments applicable thereto which shall be kept in the office of the Association, or at any other place designated by the Board upon notice to the Members, and which shall be open to inspection by any Member. Written notice of the Assessment or Assessments thereupon shall be sent to every Member subject thereto.

See Section 17.A.5(c) of this Declaration for provisions governing the adoption of a proposed budget for the Association. In the event the proposed budget is rejected, the periodic budget last ratified by the Lot Owners (or the initial budget if no other budget has been ratified by the Lot Owners) shall be continued until such time as the Lot Owners ratify a subsequent budget proposed by the Board.

Assessments to pay a judgment against the Association may be made only against the Lots in the Community at the time the judgment was entered, in proportion to their Common Expense liabilities. If Common Expense liabilities are reallocated, Common Expense Assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

Section 9.10 Effect of Non-Payment of a Lot Owner's Assessment: The Personal Obligation of the Lot Owner; the Lien; Remedies of Association. If the Assessments of a Lot Owner are not paid within thirty (30) days following the date due (being the dates referred to in Section 9.7), then such Assessments shall become delinquent and shall, together with such interest thereon and costs of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot(s), which shall bind such Lot(s) in the hands of the then-Lot Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then-Lot Owner to pay such Assessment shall remain his personal obligation for the statutory period; and, in addition, shall pass to his successors in title (as an encumbrance or lien against the Lot) unless expressly waived by the Board.

If the Assessment(s) is not paid within thirty (30) days after the delinquency date, the Assessment(s) shall bear interest from the date of delinquency at the rate of one and one-half percent (1.5%) per month (or the highest rate allowed by law, whichever is less), and the Board, acting on behalf of the Association, may authorize its officers to bring appropriate civil action against the Lot Owner personally obligated to pay the same or to file a claim of lien and foreclose such lien against any such Lot(s), in like manner as a deed of trust on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes, and there shall be added to the amount of such Assessment, the costs of such action and reasonable attorneys' fees or other cost incurred by the officers of the Association pursuant to authority of the Board. By acceptance of a deed to a Lot, the Lot Owner consents to, and grants to the Association, the power of sale provided herein. A claim of lien shall specify the name and address of the Association, the name of the record owner of the Lot at the time the claim of lien is filed, a description of the Lot, and the amount of the lien claimed. In the event a judgment is obtained against any Lot Owner for such Assessments, such judgment shall include interest on the Assessment as above provided and a reasonable attorney's fee to be fixed by the court, together with the costs of the action. In addition, the Board may set a schedule of late fees also due and payable if an Assessment is not paid within thirty (30) days after the delinquency date, which late fees shall be in addition to the other changes described herein. See Section 17.A.5(d) of this Declaration for additional provisions concerning the effect of nonpayment and remedies.

Section 9.11 Subordination of the Lien on a Lot Owner's Property to Mortgages or Deeds of Trust. The lien on a Lot Owner's property of the Assessments provided for herein shall be absolutely subordinate to the lien of any first mortgage or deed of trust now or hereafter placed upon any Lot(s) subject to Assessment. The subordination shall not relieve any Lot(s) from liability for any Assessments now or hereafter due and payable, but the lien thereby created shall be secondary and subordinate to any first mortgage or deed of trust as if said lien were a second mortgage or deed of trust, irrespective of when such first mortgage or deed of trust was executed and recorded. The sale or transfer of a Lot shall not affect any lien for Assessments. However, the sale or transfer of a Lot that is subject to a first mortgage or first deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such Assessments as to the payment thereof which became due prior to such sale or transfer. The extinguished Assessments shall be collectable as a Common Expense from all Lot Owners in the Community. No such sale or transfer shall relieve a Lot from liability for any assessments thereafter becoming due, or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any such first mortgage or first deed of trust.

Section 9.12 Exempt Property. The following property subject to this Declaration shall be exempted from the Assessments, charges and liens created herein:

(a) all Common Areas as defined in Article Two of this Declaration; and

(b) all properties exempted from taxation by the laws of the State of North Carolina, upon the terms and to the extent of such legal exemption (Homestead exemptions shall not be considered an exemption.)

Notwithstanding any provision of this Section, no Lot shall be exempt from said Assessments, charges or liens except as described in Section 9.13 hereof.

Section 9.13 Declarant's Obligations for Assessments. Notwithstanding any term or provision of this Declaration which may be construed to the contrary, no Lot owned by the Declarant shall be subject to any assessment provided for in this Article during any period of time in which Declarant owns such Lot. At such time as any Lot that is owned by the Declarant shall be conveyed or transferred to a third party by the Declarant, all liens and assessments provided for in this Article for the calendar year in which the conveyance occurs shall become immediately levied against such Lot, and the Lot Owner of such Lot shall upon closing thereof immediately become liable for the payment of all such assessments. The amount of the annual Assessment that shall become so payable with respect to any Lot shall be prorated according to the respective portions of the calendar year that such Lot was owned by the Declarant and by such successor owner.

Section 9.14 Maximum Annual Assessment. See Section 17.A.5(c) of this Declaration for the initial annual Assessment amount and the maximum annual Assessment that can be charged thereafter. The limitation on the increase in the annual Assessments herein shall not apply to any change in the maximum amount of the Assessments undertaken as an incident to a merger or consolidation in which the Association is authorized by law to participate.

Section 9.15 Reserve Funds. From and after the recording of this Declaration, the Association may establish and maintain a reserve fund or funds for replacement and maintenance of the improvements located on the Common Area or the Property. In that event, the Association shall allocate revenues from Assessments to such reserve fund or funds in such amounts and in such manner as may be established from time to time by the Board. The reserve fund or funds shall be segregated from operating funds of the Association and may be in the form of a cash deposit, or invested in certificates of deposit or similar obligations issued by a bank or savings and loan association or the obligations of, or fully guaranteed as to principal by, the United States of America. The reserve fund or funds shall be used for the purpose of repairing, replacing and maintaining any facilities owned by the Association, and for such other purposes as may be determined by the Board.

ARTICLE TEN
INSURANCE AND RECONSTRUCTION

Section 10.1 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 covering all buildings and common area improvements located within 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.

(b) Liability 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 Lot 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 One Million Dollars ($1,000,000.00) per occurrence. 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 (1/2) the annual budgeted amount of annual Assessments, or the amount required by any First 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 applicable governmental entity or agency ("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 and Dwelling Unit 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 required by any Agency.

Section 10.2 Premiums. Premiums upon insurance polices purchased by the Association, and any amounts paid as a result of a deductible on such policies, shall be paid by the Association and charged as a Common 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.

Section 10.3 General Standards. All insurance policies maintained by the Association under this Article 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 to all Lot Owners and First Mortgagees, provided that in lieu of such duplicate original policies the Association may deliver certificates to the Lot Owners and the First Mortgagees attesting the fact that such policies and such insurance are in force and effect. The Association also shall furnish to all Lot Owners and First Mortgagees evidence that premiums for the insurance

required of it have been paid on an annual basis. Notwithstanding the foregoing, during the existence of the Class B membership of the Association, all insurance may be provided by a self-insurance program maintained by the Declarant.

As provided in Section 47F-3-113 of the Act, it shall be the duty of the Association to obtain and maintain in effect at all times a policy of casualty insurance on all improvements located on the Common Elements. The amount of such policy shall be in amount that is no less than eighty percent (80%) of the replacement cost of the improvements to be insured with deductibles in amount to be determined by the Board. It shall also be the duty of the Association to obtain and maintain in effect at all times a comprehensive policy of public liability insurance. The comprehensive policy of public liability insurance shall have a reasonable amount of coverage, as shall be determined by the Board, and shall provide for such deductibles, as shall be determined by the Board. During the existence of the Class B membership of the Association, both insurances may be provided by a self-insurance program maintained by the Declarant.

Section 10.4 Lot Owners' Insurance. Each Lot Owner, by the acceptance of a deed or ground lease of such Lot Owner's Dwelling Unit(s), hereby agrees and covenants to procure and maintain in full force and effect at all times, (i) comprehensive public liability insurance, in an amount of at least $100,000.00 per occurrence, including liability for injuries to and death of persons, and for property damage, and (ii) hazard insurance against loss or damage to such Lot Owner's Dwelling Unit(s) by fire or other insurable hazard and other appropriate damage and physical loss insurance, an amount equal to not less than one hundred percent (100%) of the full replacement insurable value of such Dwelling Unit(s) and the Association shall be named as an additional insured/loss payee under such hazard insurance policy. If any Lot Owner fails to maintain the insurance required in this Section, the Association may, but shall not be obligated to, obtain such insurance and pay any premiums required in connection with obtaining such insurance. Such Lot Owner shall be personally liable to the Association for all costs incurred by the Association in obtaining such insurance, to the same extent as such Lot Owner is liable for Assessments levied against such Lot Owner's Lot(s). Upon the failure of such Lot Owner to reimburse such premiums and costs within ten (10) days after such Lot Owner's receipt of a written demand therefor from the Association, the Association may establish and enforce a lien therefor upon the Lot Owner's Lot(s) in accordance with and subject to the provisions of this Declaration applicable to a lien for Assessments. Each Lot Owner shall file a copy of such policies with the Association within thirty (30) days after purchase of each such Lot.

Notwithstanding the foregoing provisions of this Section, it shall be the duty of the Board to obtain and maintain in effect bonds for termite infestation of the Townhomes.

Section 10.5 Responsibility for Reconstruction or Repair. If any portion of the Common Area is damaged by perils covered by the property insurance maintained by the Association in accordance with Section 10.1(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 (a) the proceeds of insurance are not sufficient to repair damage or destruction of any part of the Common Area 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 cost of such repairs shall be a Common Expense of the Association.

Each Lot Owner shall have the obligation to maintain in good condition and repair such Lot Owner's Dwelling Unit and all other permitted structures and/or improvements located on such Lot Owner's Lot in accordance with the applicable provisions of this Declaration. If a Dwelling Unit or improved portion of any Lot is damaged by perils covered by the property insurance maintained by the applicable Lot Owner(s) in accordance with Section 10.4, such Lot Owner(s) shall cause such damaged Dwelling Unit to be promptly reconstructed or repaired in accordance with the provisions of this Declaration and any such reconstruction or repair shall be substantially in accordance with the plans and specifications for the original construction of the applicable Dwelling Unit.

Section 10.6 Procedure for Reconstruction or Repair.

(a) In the event of a casualty causing damage to any portion of the Common Area, the following provisions shall govern and apply:

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

(ii) If the proceeds of the insurance for such casualty 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 Lot Owners 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 voting at a meeting duly called for such purpose.

(iii) The proceeds of the property insurance referred to in Section 10.1(a) and the sums deposited with the Association from collections of special Assessments proceeds or authorized loans, as provided herein, shall constitute a construction fund which shall be held by the Association and applied to the payment of the cost of reconstruction and repair of the Common Area 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 costs 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.

(b) In the event of a casualty causing damage to all or any portion of a Dwelling Unit, the insurance proceeds from any Lot Owner's insurance policy on such Dwelling Unit, unless retained by a First Mortgagee of such Dwelling Unit, shall be applied first to the repair, restoration or replacement of the Dwelling Unit. Any such repair, restoration or replacement shall be done in accordance with the original plans and specifications for such Dwelling Unit; unless the Lot Owner desires to construct structures differing from those originally approved and constructed, in which event the Lot Owner shall submit plans and specifications for the differing improvements and structures to the Committee and obtain its approval prior to commencing the repair, restoration or replacement. If any First Mortgagee does not permit insurance proceeds to be used to restore any damaged or destroyed Dwelling Unit, the Lot Owner is still obligated to repair, restore or replace the damaged Dwelling Unit, at the Lot Owner's own expense, promptly and expeditiously. If the Lot Owner does not begin to make said repairs, restorations or replacements within a reasonable period of time after the damage or destruction has occurred, the Association shall have the right, but not the obligation, to have said repairs, restorations or replacements completed on the Dwelling Unit. If the Association chooses to proceed in this manner, the Lot Owner of the Dwelling Unit shall be liable to the Association for costs incurred in completing the repairs, replacements or restorations on the Dwelling Unit, to the same extent and in the same manner as the Lot Owner is liable for Assessments levied against such Dwelling Unit and/or associated Lot. Upon the failure of the Lot Owner to pay such costs as may be incurred by the Association within ten (10) days after such Lot Owner's receipt of written demand therefor from the Association, the Association may establish and enforce a lien therefor upon the Lot Owner's Lot in accordance with and subject to the provisions of this Declaration applicable to an Assessment lien. If the Association chooses not to proceed to repair, restore or replace the damaged Dwelling Unit, such choice shall not mitigate any legal liability that a Lot Owner who fails to repair its Dwelling Unit after a casualty may have to an adjacent Lot Owner for damage caused to the adjacent Dwelling Unit as a result of such failure to repair. If any First Mortgagee does not permit insurance proceeds to be used to restore any damaged or destroyed Dwelling Unit, and both the Lot Owner and the Association choose not to make said restoration, then the Lot Owner or Association shall raze the remaining improvements and structures on such Lot and return the Lot to its natural condition free of all debris. The Lot Owner shall be liable for any costs incurred by the Association in razing such improvements and structures, and also for any subsequent improvements that must be made to adjacent Dwelling Units, in order to maintain their integrity and the appearance of the community and the Townhomes. Upon the failure of the Lot Owner to pay such costs as may be incurred by the Association within ten (10) days after such Lot Owner's receipt of written demand therefor from the Association, the Association may establish and enforce a lien therefor upon the Lot Owner's Lot in accordance with and subject to the provisions of this Declaration applicable to an Assessment lien.

ARTICLE ELEVEN
MAINTENANCE; PARTY WALLS

Section 11.1 Maintenance by Association. The Association shall be responsible for the operation, maintenance and repair of the Common Area. In addition, the Association shall be responsible for grounds maintenance and lawn care in the yard area of each Lot, except for any portion of a Lot located inside a fence. Such lawn care and grounds maintenance shall consist of normal grass mowing, replacement of dead trees or shrubs, maintenance of landscaped areas or plant or flower beds installed by the Declarant or the Association (after the expiration of the Class B membership period) and any other maintenance activity as the Declaration or the Association (after the expiration of the Class B membership period) may determine, in its sole discretion, to keep such areas in a condition that is in compliance with the terms of this Declaration. Notwithstanding anything to the contrary contained herein, in the event a Lot Owner landscapes its Lot so as to change the size or character of plant or flower beds (an "Altered Bed") on its Lot, the Association shall no longer have the responsibility to maintain the Altered Beds, but such Lot Owner (and any subsequent Lot Owner of a Lot on which there are Altered Beds) shall be responsible for all maintenance of the Altered Beds at its sole cost and expense. If such Lot Owner (or subsequent Lot Owner) fails to maintain such Altered Beds in a condition in compliance with the terms of this Declaration, after providing notice of such failure to the Lot Owner, the Association may, but shall not be obligated to, enter upon such Lot Owner's Lot and maintain such landscaping in a condition in compliance with the terms of this Declaration. If such failure continues for a period of three (3) months, the Association, upon written notice to the Lot Owner, may require the Lot Owner to remove the additional landscaping and restore the beds to their original condition or to a condition consistent with other plant or flower beds maintained by the Association within the Community. If the Lot Owner does not restore the beds within fourteen (14) days after the date of such notice from the Association, the Association may remove such landscaping and restore the beds to their original condition or to a condition consistent with other plant or flower beds maintained by the Association within the Community. The cost of such maintenance and/or removal and restoration shall immediately be deemed a special Assessment levied by the Association against such Lot Owner and such Lot Owner's Lot, shall become the personal obligation of such Lot Owner and shall become a lien against such Lot enforceable in accordance with the provisions herein. If a Lot Owner of a Lot on which there are Altered Beds wishes for the Association to maintain such beds, such Lot Owner shall remove all such landscaping that altered the size or character of the Declarant or Association-installed beds and return such beds to their original condition or to a condition consistent with other plant or flower beds maintained by the Association within the Community. The Association shall also maintain, repair and replace any utility lines, fixtures and the like located in a party wall or in the first-floor flooring of a Dwelling Unit when such lines, fixtures and the like serve more than one Dwelling Unit. The cost of such maintenance, repair and replacement shall be shared by all Dwelling Units in the Building affected, unless the cause of the repair or replacement can be attributed to a specific Lot Owner, in which case such Lot Owner shall be responsible for the cost of such repair or replacement. Notwithstanding the foregoing, the Association shall not be responsible for any maintenance or repairs caused by the negligence or intentional misconduct of any Lot Owner, its agents, invitees or family members,

which shall be the responsibility of that Lot Owner. Furthermore, in no event shall the Association be responsible for the repair and maintenance of windows and/or exterior doors, which items shall be repaired, maintained and replaced at the cost and expense of the Lot Owner.

Section 11.2 Maintenance by Lot Owners. Except for the maintenance required of the Association under Section 11.1, each Lot Owner shall keep the Lot owned by him, and all improvements thereon, in a clean and sanitary condition and in good order and repair. Lot Owners shall be responsible for, and shall maintain, repair and replace at their own expense, the entirety of its Dwelling Unit, including without limitation, all walls, including drywall, utilities in walls where such utilities serve just their Dwelling Unit, features in walls (windows, vents, doors), features in roofs (vents and the like), the roof, any deck, porch or patio, and the heat pump serving the Dwelling Unit, even if not located on the Lot on which the Dwelling Unit is located. All fixtures and equipment installed within a Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of the Dwelling Unit, shall be maintained and kept in repair by the Lot Owner thereof, except that utility lines, fixtures and the like serving more than one Dwelling Unit shall be maintained by the Association as provided in Section 11.1. If a Lot Owner fails to maintain its Lot and the improvements thereon in accordance with this Article in a manner and condition reasonably satisfactory to the Board, in its sole discretion, the Board shall give written notice to such Lot Owner and, if the necessary maintenance is not completed within twenty (20) days, the Association shall have the right, through its agents, contractors, and employees, to enter upon the Lot of the defaulting Lot Owner and to repair, maintain and restore the Lot and the exterior of the Building and any other improvements erected thereon in a reasonable and good and workmanlike manner. The cost of such repair, maintenance or restoration shall immediately be deemed a special Assessment levied by the Association against such Lot Owner and such Lot Owner's Lot, shall become the personal obligation of such Lot Owner and shall become a lien against such Lot enforceable in accordance with the provisions herein. In the event of an emergency (as so deemed by the Board in its reasonable discretion), the Association shall have the right, with or without prior notice to the Lot Owner, to enter any Lot and Dwelling Unit to make emergency repairs necessary for the proper maintenance and operation of the Townhomes.

Section 11.3 Party Walls, Shared Structures and Common Utility Lines.

(a) General Rules of Law Apply. Each wall, roofing joint, fence, driveway or similar structure on a Lot that serves and/or separates any two (2) adjoining Lots shall constitute a "Party Structure". To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls, lateral support on below-ground construction, and liability for property damage resulting from negligence or willful acts or omissions shall apply to each party wall or party fence which is built as part of the original construction upon each Lot and any replacement thereof. If any portion of any structure originally constructed by Declarant, including any Party Structure, any extension of a Party Structure, and utility line or fixture therein, or any common fence, protrudes over an adjoining Lot, or into the Common Area; such structure, wall, line, fixture or fence shall be deemed to be a permitted encroachment upon the adjoining Lot or Common Area, and the Lot Owners and the Association shall neither maintain any action for the removal of the encroaching structure, wall or fence, nor any action for

damages. If there is a protrusion as described in the immediately preceding sentence, it shall be deemed that the affected Lot Owners or the Association have granted perpetual easements to the adjoining Lot Owner or Lot Owners for continuing maintenance and use of the encroaching structure, wall or fence. The foregoing provision also shall apply to any replacements in conformance with the original structure, wall or fence constructed by Declarant. The provisions of this Section shall be perpetual in duration and shall not be affected by an amendment of this Declaration.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a Party Structure shall be shared by the Lot Owners in accordance with Section 17.D.2(a) of this Declaration.

(c) Arbitration. In the event of any dispute arising concerning a Party Structure, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all such arbitrators shall be binding upon the Lot Owners, who expressly agree to submit to and be bound by such arbitration procedure and decision. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor, the Board shall select an arbitrator for the refusing party. All arbitrators chosen shall be either architects, engineers, general contractors or attorneys licensed as such in North Carolina.

Section 11.4 Easements. Every Lot Owner and the Association (and the Declarant acting on behalf of the Association prior to the termination of Class B membership) shall and hereby is granted any and all easements necessary or otherwise appropriate to allow each such party to exercise the rights granted and the obligations imposed hereunder. Such easements are for the existence (location) of utility lines, fixtures and the like, walkways and other typical elements of the Building or serving the Building that serve one or more Dwelling Unit but lying in a portion of another Dwelling Unit or Lot and for the installation, repair, maintenance, replacement, upgrade and the like of same, including, without limitation, to change the grade of grounds or to install drainage control devices.

Specifically, but not by way of limitation, easements are hereby established to allow utility lines and fixtures to cross through and under yards (underground where possible), to pass through party walls and to pass through and under the first-floor flooring of Buildings, and for the installation, repair, maintenance, replacement, upgrade and the like of same, specifically including but not limited to electricity, telephone, cable, natural gas, exhaust vents and sanitary sewer lines (which may enter the Building through one Dwelling Unit and thereafter serve each Dwelling Unit through separate lines through the walls and/or floors of the Building). Easements are hereby established to allow the existence (location) of walkways leading to each Dwelling Unit from paved areas of the Townhomes, and for the installation, repair, maintenance, replacement, upgrade and the like of same. Easements are hereby established for the exercise of the Association's right and obligation to provide maintenance (including but not limited to Building and yard maintenance and landscaping) in accordance with this Article. Easements are hereby established for each Lot Owner's right and obligation to maintain features of its Dwelling Unit or the Building as described in this Article. Easements are hereby established for the

continued existence and maintenance of the structural integrity of the party walls in the Building and the support they provide, and easements are hereby established for the continued existence and the maintenance of the structural integrity of the roof of each Building. Furthermore, easements are specifically granted for gutter systems and spouts collecting water from one Lot and channeling it through the gutter systems and spouts existing on adjacent Lots. All such easements are deemed to be located so as to expeditiously further the purpose in establishing each easement.

The easements hereby granted and established shall be exercised under the following conditions unless an emergency exists and more expedient use of the easement is appropriate (with an "emergency" being any condition to which a more expedient use of the easement will or will likely prevent significant damage to personal property or any personal injury). Notice to Lot Owners of Dwelling Units affected by the exercise of any such easement shall be provided at least twenty-four (24) hours in advance, and the party entering the Dwelling Unit shall do so in the manner least likely to disrupt the privacy and sanctity of the Dwelling Unit and its occupants. Any damage to the Dwelling Unit or the Building or Common Area caused by the exercise of the rights granted or the obligations imposed hereunder shall be repaired immediately by the party on whose behalf the exercise of easement rights hereunder was performed. In the event of controversy between Lot Owners regarding the exercise of easement rights hereunder, the Association may exercise such rights on behalf of one or more Lot Owners (whether or not the right or obligation to perform functions requiring such easements has been reserved for individual Lot Owners or the Association hereunder) and may charge the Lot Owners for whom such exercise has been performed the costs thereof.

Section 11.5 Utilities and Other Easements. 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 Dwelling Unit must be underground. The Declarant reserves unto itself, its successors and assigns, a perpetual alienable and releasable 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 streets or roads and over any Lot shown on any Recorded Plat of the Property, within up to ten (10) feet of each lot line fronting on a street (but such easement hereby granted shall not extend past or into the footing of any Building erected on a Lot) and over such other areas as are so identified on any Recorded Plats of the Property. In addition, the Association may cut, in the above described easements, as well as anywhere else that such may be 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, Declarant also reserves the right to install and maintain sidewalks leading from the Common Area to a Dwelling Unit's front door, and install, maintain and repair bike and pedestrian paths, street lights and/or street-side landscaping, which right shall automatically transfer to the Association at any time(s) when there is no Class B membership. Any easements first identified on Recorded Instruments or Recorded Plats of property no longer owned by the Declarant must be consented to on the Recorded Plat or other Recorded Instrument

by the owner of such property. The Declarant may, but is not 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, but it may do so only until two years after Class B membership has last terminated.

Section 11.6 Construction, Settling and Overhangs. Each Lot and the Common Area shall be and is subject to an easement for encroachments created by construction, settling and overhangs, as originally designed or constructed, so long as such encroachments exist. Every portion of a Lot and each Dwelling Unit constructed thereon and contributing to the support of an abutting Dwelling Unit shall be burdened with an easement of support for the benefit of such abutting Dwelling Unit. If adjoining Dwelling Units are partially or totally destroyed, and then rebuilt, the Lot Owners of the Lots so affected agree that minor encroachments from the adjacent Lots or Common Area resulting from construction shall be permitted and that a valid easement for such encroachments shall exist.

ARTICLE TWELVE
AMENDMENT TO DECLARATION

Section 12.1 Lot Owner/Member Initiated. An amendment to this Declaration may be proposed upon a majority vote of the Lot Owners (including the Declarant while the Declarant is a Lot Owner), with only one Lot Owner per Lot voting, whether meeting as Lot Owners or by instrument in writing signed by them. Any proposed amendment to this Declaration shall be transmitted in writing to all current Lot Owners, and there shall be called a special meeting of the Lot Owners for a date not sooner than ten (10) days nor later than sixty (60) days from date of notice. It shall be required that each Lot Owner be given written notice of such special meeting, stating the time and place, and reciting the proposed amendment in reasonably detailed form, which notice, if mailed, shall be mailed not less than ten (10) days nor more than sixty (60) days before the date set for such special meeting. Such notices shall be made in compliance with the provisions of Section 3.3 hereof, and after made in compliance therewith, shall be deemed to be properly given. Any Lot Owner may, by written waiver of notice signed by such Lot Owner, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such Lot Owner. At the meeting, the amendment proposed must be approved by an affirmative vote of sixty-seven percent (67%) or more of the votes of Members entitled to vote in order for such amendment to become effective (with the votes being calculated as provided in Sections 7.2 and 7.3 hereof). At any meeting held to consider such amendment, the written vote of any Lot Owner shall be recognized and counted even if such Lot Owner is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to or at such meeting. If so approved, such amendment of this Declaration shall be properly transcribed and certified by an officer of the Association, pursuant to a form substantially similar to the form attached hereto as Exhibit B, stating that the amendment was duly adopted and approved by the requisite percentage of Lot Owners. The original or an executed copy of such amendment, properly executed with the same formalities as a deed, shall be recorded in the Office of the Register of Deeds of Wake County, and no such amendment to this Declaration shall be effective until so recorded. (See also Section 17.A.4 of this Declaration

regarding additional approvals required (for so long as City ordinances require) for amendments altering the Raleigh Code Article.) If any amendment to the Declaration creates an inconsistency in the Bylaws, to the extent such inconsistency exists, the Declaration shall control. Notwithstanding anything herein to the contrary, no meeting of the Association shall be necessary to approve a proposed amendment in the event all Lot Owners (including the Declarant if Declarant owns any property within the Property) execute the proposed amendment to signify their consent thereto. Without the prior written consent of the Declarant, when Declarant is a Class B Member, (i) there shall not be allowed any Lot Owner/Member-initiated amendments to this Declaration for a period of three years from the effective date hereof, and (ii) no Lot Owner/Member-initiated amendments may be made for any reason to Sections 9.13, 11.4, 11.5, and 11.7 or this Article. The above limitation shall in no way limit or diminish Declarant's rights to make amendments to any part of the Declaration under the powers reserved in Section 12.2 below.

Section 12.2 Declarant's Right to Unilaterally Amend. Subject to Section 17.A.4 of this Declaration, Declarant, or its successor or assigns, shall be allowed to unilaterally make any amendments to this Declaration necessary, in the Declarant's opinion: for compliance with laws or regulations relating to FHA, HUD, VA, the Federal National Mortgage Association, or the Office of Interstate Land Sales; necessary to establish the nonprofit qualifications of the Association; to correct any discovered typographical error contained herein; to clarify any ambiguity contained herein; to comply with governmental directives; or to add or delete any incidental provisions deemed in the sole discretion of Declarant to be in the best interest of the Property and the Lot Owners thereof. This right may be exercised, and shall be effective only upon the recordation of a "Corrected Declaration" in the Office of the Register of Deeds of Wake County, which Corrected Declaration shall specifically reference this document, and the provision impacted.

Subject to Section 17.A.4 of this Declaration, the Declarant may also amend this Declaration by filing an amendment in the Wake County Registry executed by only the Declarant if at the time of recording the amendment the Declarant is still the sole owner of all property (excluding streets and rights-of-way) in the Community. Such an amendment need not be certified by the Association.

Section 12.3 When Effective; Recording; Title Searching. An amendment to this Declaration that complies with the provisions of Section 12.1 or Section 12.2 (and the Raleigh Code Article, if applicable) shall be effective when recorded in the Wake County Registry. The amendment shall be indexed under the name of the Declarant or its successor, the Association or its successor, or the Lot Owners of the property in the Property. The failure of the amendment to be indexed under all of the foregoing shall not invalidate such amendment so long as the amendment has been indexed under at least one of the foregoing. Anyone searching title on Lots in the Property should search under the names of the foregoing to discover amendments to this Declaration that may have occurred after the Lot has been conveyed to a Lot Owner from the Declarant.

ARTICLE THIRTEEN
CAPTIONS, INTRODUCTIONS, RECITALS AND GENDER

The captions and introductory material herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof. The recitals to this Declaration are hereby incorporated herein and made a part hereof by reference. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine and neuter genders, and the use of the singular shall be deemed to refer to the plural, and the use of the plural shall be deemed to include the singular, whenever the context so requires.

ARTICLE FOURTEEN
SEVERABILITY AND GOVERNING LAW

If any provision of this Declaration is found to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof, and for the purposes hereof all covenants and restrictions as contained herein shall be deemed to be severable each from each other without qualification. This Declaration and the separate provisions thereof shall be construed and enforced in accordance with the laws of the State of North Carolina without regard to principles of conflict of laws.

ARTICLE FIFTEEN
CONSTRUCTION ACTIVITIES

All Lot Owners, occupants, and users of Lots or Dwelling Units are hereby placed on notice that Declarant, and/or its agents, contractors, subcontractors, licensees, and other designees, successors, or assigns, may, from time to time, conduct blasting, excavation, construction, and other activities within the Property. By the acceptance of a deed or other conveyance or deed of trust, leasehold, license, or other interest, and by using any portion of a Lot or Dwelling Unit or the Property generally, the Lot Owners and all occupants and users of Lots or Dwelling Units acknowledge, stipulate, and agree (a) such activities shall not be deemed nuisances, or noxious or offensive activities, under any applicable covenants or at law generally; (b) not to enter upon, or allow their children or other persons under their control or direction to enter upon (regardless of whether such entry is a trespass or otherwise) any property within or in proximity to the Lot or Dwelling Units where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours); (c) that Declarant, and all of its agents, contractors, subcontractors, licensees, and other designees, successors and assigns, shall not be liable but, rather, shall be held harmless for any and all losses, damages (compensatory, consequential, punitive, or otherwise), injuries, or deaths arising from or relating to the aforesaid activities; (d) that any purchase or use of any portion of a Lot or Dwelling Units has been and will be made with full knowledge of the foregoing; and (e) this acknowledgment and agreement is a material inducement to Declarant to sell, convey, lease, and/or allow the use of Lots or Dwelling Units within the Property.

ARTICLE SIXTEEN
DISSOLUTION OR INSOLVENCY OF THE ASSOCIATION

So long as dissolution of the Association occurs in compliance with the laws of the State of North Carolina and the Code (of Raleigh), the Association shall be dissolved upon the termination of this Declaration, or upon the written assent given in writing and signed by not less than two-thirds (2/3) of the Members of each class of Members. Upon dissolution or insolvency of the Association or upon loss of ownership of the Common Area (once such ownership has been acquired) by the Association for any reason whatsoever (except for exchange or dedication or conveyance of any part or all of the Common Area as allowed by this Declaration or by reason of merger and/or consolidation with any other association as allowed by this Declaration), any portion of the Common Area not under the jurisdiction and being maintained by the Association, shall be offered to the City of Raleigh, North Carolina, or to some other appropriate governmental entity or public agency (as determined by the Board) to be dedicated for public use for purposes similar to those to which the Common Area and such assets were required to be devoted by the Association. If the City of Raleigh or such other appropriate governmental entity or public agency accepts the offer of dedication, such portion of the Common Area and assets shall be conveyed by the Association to the City of Raleigh or such other appropriate governmental entity or public agency, subject to the superior right of the Lot Owner of each Lot to an easement (if necessary) for reason ingress and egress to and from such Lot Owner's Lot and the public or private street(s) on which such Lot is located, and subject to all other applicable rights of way and easements and subject to ad valorem property taxes subsequent to the date of such conveyance.

In the event that the City of Raleigh or such other appropriate governmental entity or public agency refuses the offer of dedication and conveyance, the Association may transfer and convey such Common Area and assets to any nonprofit corporation, association, trust or other entity which is or shall be devoted to purposes and uses that would most nearly conform to the purposes and uses to which the Common Area was required to be devoted by this Declaration, such conveyance to be made subject to the rights of Lot Owners and other matters set forth in the immediately preceding paragraph.

ARTICLE SEVENTEEN
RALEIGH CITY CODE REQUIREMENTS

PART A
DEFINITIONS AND GENERAL REQUIREMENTS

Section 17.A.1 Definitions. As used in this Article, the following words and terms have the following definitions, unless the context in which they are used clearly indicates otherwise (when any of these and other defined words or terms in this Article have an initial capital letter, however, it is not required that their use have initial capital letters in order to have the defined meaning). Some or all of the following words and terms may have the same definitions in other portions of this Declaration; if so, they are being repeated here for convenience; if not, as used in this Article, they have the definitions contained in this Article.

Words and terms defined in other portions of this Declaration and not defined in this Article but used in this Article have the definition defined for them in such other portions of this Declaration, unless those definitions are superseded or modified as a result of the conflict rules set forth in Section 3 of this Part A (for example, words and terms defined by the Code and used in this Declaration have the definitions contained in the Code, notwithstanding that they may be defined differently in this Article or other portions of this Declaration; however, to the extent that a word or term is defined in this Article or other portions of this Declaration differently from how it is defined in the Code, and the definitions do not conflict, then both definitions are applicable). With respect to words and terms used herein, the singular shall include the plural, the plural shall include the singular, and one gender shall include all.

(a) "Act" is defined as the North Carolina Planned Community Act, as contained in Chapter 47F of the North Carolina General Statutes (or as contained in any successor portion of the North Carolina General Statutes), as the same exists from time to time. The Act is referred to herein from time to time as G.S.47F, with the particular section number following the G.S.47F reference (for example, G.S.47F-1-101). Words and terms used in this Article that are defined in the Act but not defined in the Code (for example, the term special declarant rights), have the definition contained in the Act.

(b) "Annexation Declaration" is defined as a document, by whatever name denominated, that is recorded for the purposes of annexing Annexed Property to this Declaration and causing such Annexed Property to be subject to the scheme of covenants, charges, conditions and restrictions contained in this Declaration and including any additional covenants, charges, conditions and restrictions contained in the Annexation Declaration.

(c) "Annexed Property" is defined as all real property annexed or subjected (those two terms being used interchangeably herein) to any part or all of the terms of this Declaration following the initial recording of this Declaration in the Registry.

(d) "Association" is defined as the nonprofit corporation organized and operated under the laws of the State of North Carolina as the property Owners association for the Properties. Sub-Association (if applicable) is defined as a nonprofit corporation organized and operated under the laws of the State of North Carolina as the property Owners association for a portion of, but not all of, the Properties. There may be one or more Sub-Associations (if applicable) with respect to the Properties. An example of a Sub-Association is a property Owners association for a townhouse development that is part of a cluster unit development which has an Association for the cluster unit development. All references herein to an Association that is, in fact, a Sub-Association, are deemed corrected accordingly.

(e) "Board" is defined as the board of directors of the Association, and is the Executive board as defined in the Act. The Board is responsible for the management and administration of the Association as provided for in this Declaration and in the Act.

(f) "City" or "City of Raleigh" is defined as the City of Raleigh, North Carolina, a North Carolina municipal corporation.

(g) "Code" is defined as the Raleigh City Code of Ordinances as it exists from time to time, and includes all duly adopted regulations, rules, directives, and policies of the City pursuant to or in furtherance of the Code.

(h) "Common Area" is defined as real property, together with any improvements situated thereon, intended for the common use and benefit of Owners and occupants of the Properties, however such real property is described on a plat or document recorded in the Registry. Common Area may be owned or leased by the Association or it may be owned by another Person with the Association having a right or easement therein (for example, part or all of a private stormwater drainage easement located on either a Lot or real property that is not part of the Properties and that serves more than one (1) Lot in the Properties or a right of the Association to use of a portion of a public street right-of-way pursuant to an encroachment agreement with the City). Common Areas include all of the following:

(i) any private street and private walkways in the Properties (but excluding private walkways on and solely for the benefit of an individual Lot);

(ii) Stormwater Control Measures;

(iii) any water or sewer utility line that serves more than one Lot and which is either located outside public street rights-of-way or outside any City utility easement;

(iv) any site or facility designated a common area, common property open space, common open space lot, open space common area, amenity area, or other similar designation on any recorded plat or map of the Properties, or in this Declaration;

(v) any Code-required shared facility or Open Space for the Properties, except for Open Space owned by the City;

(vi) any public road right-of-way dedicated to the public on plats and maps of the Properties recorded in the Registry but not accepted for public Maintenance by the appropriate Governmental Entity. Provided, however, that the fact that a street or road has not been accepted by the applicable Governmental Entity shall not relieve the Declarant of the obligation to take such action as is necessary to have it accepted. The Association has the right to enforce this Declarant obligation, and the Declarant shall be liable to the Association for all costs and expenses, including court costs and reasonable attorney's fees, incurred by the Association in connection with such unaccepted street improvements and enforcement of its rights against Declarant hereunder; and

(vii) any object or improvement located on, under, in or over public property or public right-of-way which object or improvement is subject to an encroachment agreement with a Governmental Entity that is recorded in the Registry, and may include: signs, landscaping, irrigation facilities, drain pipes, decorative surfaces and brick pavers.

Common Area that is owned by or subject to being Maintained by a Sub-Association is Sub-Association Common Area, even if it is referred to in this Declaration or in any recorded plat of the Properties as Common Area instead of Sub-Association Common Area. Common Area, if any, established by the Declarant or the Association for the benefit of fewer than all of the Owners and occupants of the Properties is Limited Common Area, and such Limited Common Area and the Owners and occupants of the applicable portion of the Properties for whose benefit the Limited Common Area exists are subject to the same Code provisions as those applicable to Common Area. All references herein or in any recorded plat of the Properties to Common Area that is, in fact, Limited Common Area, are deemed corrected accordingly. Sub-association Common Area, if any, owned by or subject to being Maintained by a Sub-Association for the benefit of fewer than all of the Owners and occupants of the applicable portion of the Properties is Sub-Association Limited Common Area, and such Sub-Association Limited Common Area and the Owners and occupants of the applicable portion of the Properties for whose benefit the Sub-Association Limited Common Area exists are subject to the same Code provisions as those applicable to Sub-Association Common Area. All references herein or in any recorded plat of the Properties to Limited Common Area or Sub-Association Limited Common Area that is, in fact, Common Area or Sub-Association Common Area, are deemed corrected accordingly.

(i) "Common Expense" is defined as all of the expenses incurred by the Association in furtherance of its rights and responsibilities under the Act, the Code, and the Governing Documents and including specifically, but without limitation, all of the following: (Expenses for the Maintenance of Limited Common Area are Limited Common Expenses, which is a subcategory of Common Expense.)

(i) All sums lawfully assessed by the Association against its Members;

(ii) Expenses of the Common Area and administration, inspection and Maintenance of the Common Area;

(iii) Expenses classified as Common Expenses under the Act, the Code, or under the provisions of this Declaration or other Governing Documents;

(iv) Expenses for acquisition, Maintenance, repair, restoration, replacement, use and operation of personal property owned or leased by the Association for the benefit of the Members;

(v) Premiums for property, liability or such other insurance premiums as this Declaration or other Governing Documents may require the Association to purchase;

(vi) Ad valorem taxes and public assessment and charges lawfully levied against any Common Area owned in fee simple by the Association;

(vii) Fees or charges for utilities used in connection with the Common Area;

(viii) Any unpaid Association assessment following the foreclosure of a first mortgage or first deed of trust or an assessment lien;

(ix) Allocations to reserve funds;

(x) Payments owed to the City pursuant to any Stormwater Agreement, except for payments in such Stormwater Agreement owed to the City by the Declarant;

(xi) Fees for services engaged by the Association;

(xii) Costs and expenses for which the Association is obligated under any encroachment agreement or other agreement with the City or other Governmental Entity;

(xiii) Financial obligations of the Association or financial obligations of Members with respect to which the Association has responsibility for collection and payment;

(xiv) Expenses incurred by the Association in performing its functions and providing services, including operating, management, enforcement and administrative expenses;

(xv) Expenses agreed by the Members to be Common Expenses of the Association; and

(xvi) Expenses imposed upon the Property (as "Lot 2") pursuant to the Maintenance Agreement as long as the Maintenance Agreement is in effect.

(j) "Declarant" is defined as Pulte Home Corporation, a Michigan corporation, its successors and assigns.

(k) "Declarant Annexation Date" is defined as the last date and time on which the Declarant has the right to annex real property to this Declaration without the consent or joinder of any Person other than the City, which date is 5:00 p.m. on November 1, 2005 (or, if no date is entered in the blank space, is 5:00 p.m. on the date that is seven (7) years following the date of the recording of this Declaration). The timeliness of an Annexation Declaration is determined by the date of its recordation as stamped by the Registry notwithstanding its date of execution.

(l) "Declarant Control Period" is defined as any period of Declarant control of the Association, as provided in 47F-3-103(d) of the Act and established in this Declaration (which may include a vote allocation that gives Declarant, by itself, sufficient voting power to elect members of the Board).

(m) "Declaration" is defined as the document, however denominated, which contains this Article, together with all exhibits and amendments to the document.

(n) "Fiscal Year" is defined as the calendar year until such time as the Board, by appropriate resolution, establishes a different Fiscal Year for the Association.

(o) "Governing Documents" is defined as all of the following: this Declaration; the Articles of Incorporation and Bylaws of the Association; architectural guidelines and bulletins and rules and regulations of the Association; Annexation Declarations; and other declarations of restrictive or protective covenants applicable to the Properties; and all Sub-Association documents (with respect to those portions of the Properties subject to such Sub-Association documents), as the same may be amended, restated or supplemented from time to time.

(p) "Governmental Entity" is defined as the City, the County of Wake, North Carolina, the State of North Carolina, the United States of America and all other governmental entities and quasi-governmental entities that have jurisdiction over the Properties or any part thereof, and all applicable departments and agencies of any of them, whichever Governmental Entity or entities is/are applicable.

(q) "Include" or "Including" is defined as being inclusive of, but not limited to, the particular matter described, unless otherwise clearly obvious from the context.

(r) "Lot" is defined as any numbered or lettered portion of the Properties, together with any improvements thereon, which is shown upon any recorded plat of any part or all of the Properties, and which is not any of the following: dedicated street rights-of-way; Common Area; Open Space owned in fee simple by the Association; greenway or park lands owned in fee simple by the City.

(s) "Maintain", "Maintenance", "Maintaining", or any similar term used herein is defined to include any one or more of the following, as the context requires: acquisition, purchase, construction, re-construction, installation, maintenance, inspection, examination, upkeep, cleaning, renewal, alteration, repair, replacement, repainting, remodeling, restoration, removal, improvement, administration, operation, use, planting, mowing, cutting, trimming, pruning, fertilizing, watering and preservation. Provided, however, this definition is not applicable to Section 8 of Part A of this Article.

(t) "Member" is defined as each Person who or which holds membership in the Association.

(u) "Mortgagee" is defined as the beneficiary or payee under any mortgage or deed of trust, and the terms mortgage and deed of trust are deemed to refer to both mortgages and deeds of trust.

(v) "Open Space" is defined as open space areas (including Common Open Space Lots) shown on preliminary subdivision plans filed with the City and delineated on any recorded plat of the Properties or the open space areas required by the Code or by the conditional

use zoning of the Properties for the perpetual benefit of the Owners. Open Space areas required under the Code are required as compensation for the flexible lot dimensions allowed on part or all of the Properties and Open Space areas in Conditional Use Zoning Districts may be required as consideration for such conditional use zoning. Accordingly, Open Space may not be conveyed except in strict compliance with the Code. Under the Code, Open Space may be owned by the Association, a Sub-Association, or by the City. Open Space owned by the Association or a Sub-Association is Common Area or Sub-Association Common Area, as appropriate.

(w) "Operating Deficit" is defined as the difference between the total amount of the annual assessments for a Fiscal Year levied on all Lots and the amount of actual expenditures by the Association during the Fiscal Year for Common Expenses, including funding of reserves, but excluding (i) amounts levied against a Lot, but which are not paid, and (ii) special assessments for capital improvements.

(x) "Owner" is defined as the record Owner, whether one or more Persons, of fee simple title to any Lot, and shall include Declarant as to any Lot owned by Declarant. "Owner" shall not include any Person who holds an interest in a Lot merely as security for the performance of an obligation or as a tenant.

(y) "Person" is defined to include any natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, Governmental Entity (including the City), or other entity.

(z) "Properties" is defined as all of the real property subject to any part or all of the terms of this Declaration. The amount of acreage of the Properties at the time of the recording of this Declaration is approximately 15.3 acres.

(aa) "Registry" is defined as the office of the Register of Deeds (or any successor office under applicable law) for the North Carolina County or Counties in which deeds, plats, easements, mortgages and deeds of trust for the Properties are recorded. All references herein to recording or to any requirement to record a document or plat refer to recording in the Registry of the County or Counties in which the applicable portion of the Properties is situated.

(ab) "Stormwater Agreement" is defined as any agreement recorded in the Registry among the Declarant, the Association, and the City, or between the Declarant and the City, or between the Association and the City, relating to Stormwater Control Measures for the Properties or any part thereof, and includes all amendments and supplements to such agreements. A Stormwater Agreement with the City includes the Stormwater Replacement Protection Easement and Access Maintenance Agreement and Installment Replacement Contribution Contract and the Stormwater Replacement Protection Easement and Access Maintenance Agreement and Lump Sum Replacement Contribution Contract (those names being subject to change from time to time under the Code).

(ac) "Stormwater Control Measures" or "Stormwater Control Facilities", such terms being used interchangeably herein and in the Stormwater Agreement, is defined as one or

more of the following devices and measures, together with associated private stormwater drainage easements (however identified on a plat or in a document) that serves the Properties: conduits, inlets, channels, pipes, level spreaders, ditches, grassed swales, sand filters, wetponds, dry detention basins, wetlands, permanently protected undisturbed open space areas, bio-retention areas, retention or detention ponds, and other devices and measures, necessary to collect, convey, store, and control stormwater runoff and pollutants for more than one (1) Lot in the Properties, and which are located outside public street rights-of-way and City drainage easements. Private stormwater drainage easements that serve more than one (1) Lot in the Properties, however identified on a recorded plat or in a recorded document, are deemed to be dedicated to the Association for the benefit of the Properties or applicable portion thereof. All Stormwater Control Measures are Common Area or Limited Common Area, or Sub-Association Common Area or Sub-Association Limited Common Area, as applicable.

(ad) "Stormwater Operations Maintenance Manual and Budget" is defined as that manual; however named, attached to and incorporated into the Stormwater Agreement as an exhibit for the Maintenance of Stormwater Control Measures and the payment of the costs thereof.

Section 17.A.2 Applicability. The Properties, this Declaration and the other Governing Documents are subject to the ordinances, regulations, and rules of the City, and shall be construed in accordance with all of the applicable provisions of the Code, whether or not such Code provisions are specifically referenced in this Declaration. There may be certain provisions of the Code that apply to all of the Properties and certain provisions of the Code that apply only to certain portions of the Properties (for example, provisions of the Code relating to private streets apply only to those portions of the Properties that contain private streets). It shall be the responsibility of the Association and each Owner of each portion of the Properties to comply with all provisions of the Code applicable to such portion of the Properties, whether or not any approval, disapproval, waiver or variance of the terms of this Declaration with respect to such portion of the Properties has been given by the Declarant or its authorized agent, the Board, any committee of the Board, or any other Person who has the authority to give such approval, disapproval, waiver or variance.

Section 17.A.3 Conflicts.

(a) Some or all of the Properties may be subject to the provisions of the Act. To the extent that Properties are subject to the Act, the provisions of the Act control over any inconsistent provisions of this Declaration, any Annexation Declaration or any other Governing Documents.

(b) The provisions of the Code control over any inconsistent provisions of this Declaration, any Annexation Declaration or any other Governing Documents. As applicable provisions of the Code are amended, modified, revised, deleted, or moved to different sections, this Declaration and all Annexation Declarations are deemed to be revised so as to conform to the provisions of the Code as they exist from time to time and are applicable to the Properties or any part thereof. Provided, however, any provision of this Declaration or any Annexation

Declaration that is more restrictive than an applicable provision of the Code (for example, a building setback distance required by this Declaration or an Annexation Declaration that is greater than that required by the Code) is not an inconsistent provision of this Declaration unless the Code specifically provides otherwise, and is not deemed revised to conform to the Code.

(c) The provisions of this Article control over any inconsistent provisions of any other portion of this Declaration, any Annexation Declaration or any other Governing Documents.

(d) The provisions of this Declaration control over any inconsistent provisions of any other Governing Documents, except as to matters of compliance with the North Carolina Nonprofit Corporation Act, in which event the Articles shall control.

Section 17.A.4 Amendment of Declaration. Amendments to this Declaration are valid from the later of the time of recording in the Registry or such later date specified in the amendment. When City approval of an amendment is required by the Code or by a provision of this Declaration (including this Article), City approval shall be evidenced by the signature of the Raleigh City Attorney or his/her Deputy on the recorded original or copy of the amendment. Any amendment of this Article of this Declaration must have prior City approval. Any amendment of this Article or any other provision of this Declaration that requires City approval is void *ab initio* if recorded without the required City signature.

Section 17.A.5 Assessments.

(a) Obligation for Assessments. Each Owner, by execution of this Declaration or by acceptance of a deed or other instrument conveying title to a Lot, whether or not it shall be so expressed therein, is deemed to consent and agree to pay to the Association (or to any Person who may be designated by the Association to collect such monies) all assessments and other charges required by this Declaration, including the following: (1) annual assessments; (2) working capital assessments; (3) stormwater assessments created and established pursuant to Part B of this Article; (4) special assessments; (5) fines for violations of the provisions of this Declaration or other Governing Documents or assessments levied against Owners for misuse and damage to the Common Areas by the Owners or their family members, tenants, agents, contractors and guests; (6) individual assessments for any expense under the Code or this Declaration which the Association becomes obligated to pay and pays on behalf of an Owner; (7) late payment charges, interest on unpaid assessments, costs of collection, including without limitation, court costs, service charges, and attorney's fees as provided in the Act, and charges for dishonored checks; all as established by the Board from time to time; and (8) all other assessments and charges imposed or allowed to be imposed by this Declaration.

The Association at all times has the right to include as part of the assessments or other charges applicable to the Properties and the Owners thereof such amounts as are required to pay all Common Expenses and all financial obligations of the Association imposed by the Code either (i) directly on the Association, or (ii) indirectly on the Association by imposition of the financial obligation on some or all of the Owners, with the Association having responsibility for

collection and payment to the City.

(b) Purpose of Assessments. The annual assessment primarily is for the purpose of funding the Common Expenses of the Association, including monies allocated for reserve funds, for the Fiscal Year to which it applies and in accordance with the budget for that Fiscal Year adopted by the Association, although such assessments may be used for payment of any Common Expenses as determined by the Board. All budgets of the Association shall be proposed in good faith and with the intent to cover all reasonably necessary Common Expenses for the applicable Fiscal Year of the Association, including monies allocated for reserve funds.

(c) Budgets; Amount of Assessments. The Association is at all times empowered to levy assessments against the Lots and the Owners of Lots within the Properties for the payment of Common Expenses.

Notwithstanding the foregoing, for the calendar year in which the first Lot conveyance occurs, the annual assessment per Lot is One Thousand Two Hundred and No/100ths Dollars ($1,200.00). The "Maximum Annual Assessment" for each subsequent Fiscal Year for purposes of voting percentages to ratify the budget is 110% of the amount of the annual assessment for the immediately preceding Fiscal Year.

The Board of Directors shall adopt a proposed budget for the Association at least annually. Within thirty (30) days after the adoption of the proposed budget, the Board of Directors shall send a copy of the proposed budget to the Members and shall give written notice to the Members of a meeting of the Members to consider ratification of the budget, such meeting to be held not sooner than ten (10) days nor more than sixty (60) days after the mailing of such notice. Such meeting may, but need not be, combined with the annual meeting of the Members. There shall be no requirement that a quorum be present to vote on ratification of the budget (although a quorum must be present to vote on other matters). The budget shall be deemed ratified unless at that meeting Members having a majority of the votes of the entire membership vote to reject the budget; provided, however, if the budget provides for an annual assessment per Lot not in excess of the Maximum Annual Assessment in effect for that Fiscal Year of the Association, such budget shall be deemed ratified unless Members having at least eighty percent (80%) of the votes of the entire membership vote to reject the budget. If any proposed budget is rejected by the Members, the budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board.

The provisions of this subsection shall not apply to, nor shall they be a limitation upon, any change in the annual assessment or the Maximum Annual Assessment incident to a merger or consolidation as provided in §47F-2-121 of the Act.

(d) Effect of Non-Payment; Remedies. No Owner shall be exempt from liability for any assessment provided for herein for reason of non-use of the Common Area or such Owner's Lot, or abandonment or leasing of such Owner's Lot, or unavailability of the use or enjoyment of the Common Area.

All assessments and other charges shall be established and collected as provided in this Declaration. All assessments and other charges remaining unpaid for thirty days (30) days or longer, together with late charges, interest, and the costs of collection thereof, including attorney's fees, shall be charge on the Owner's Lot as provided in G.S.47F-3-116 of the Act and, upon filing of a claim of lien in the office of the clerk of superior court of the county in which the Lot is located in the manner provided in G.S.47F-3-116(g), shall be a continuing lien upon the Lot against which such assessment is made until paid in full. The lien may be foreclosed by the Association in any manner permitted under the Act or by law. When the holder of a first mortgage or first deed of trust of record or other purchaser of a Lot who obtains title to the Lot as a result of a foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns shall not be liable for the assessments and other charges against such Lot which became due prior to the acquisition of title to such Lot by such purchaser. Each assessment and other charges due hereunder, together with late charges, interest, the costs of collection thereof, including attorney's fees, shall also be the personal obligation or corporate obligation of each Person who was Owner of the Lot at the time when the assessment or other charge first became due and payable and may be collected by appropriate action at law. If more than one Person held an ownership interest in the Lot at the time the assessment or other charge first became due, then each Person shall be both jointly and severally liable. An Owner's personal obligation for payment of such assessments and other charges shall not become the personal obligation of a subsequent Owner unless expressly assumed by the subsequent Owner, although the lien shall continue against the Lot until the amounts due are paid.

(e) Classes of Membership. This Declaration may allow different classes of membership in the Association and may allow different levels of annual assessments and other assessments to be imposed for different classes of membership.

(f) Declarant's Obligation to Fund Deficits; Assessment Credit. During the Declarant Control Period, Declarant shall be obligated to fund any Operating Deficit. Declarant, at its option, may fund the Operating Deficit by any one or more of the following means: (i) payment to the Association; (ii) payment directly to a person or entity providing the services or materials to the Association, or (iii) providing, directly or indirectly, to or for the Association, services or materials related to Common Expenses (the value of which shall be determined by the Board in its reasonable discretion, giving due consideration to what the fair market value of such services or materials would be if they had been furnished by a Person other than Declarant).

Declarant's obligation to fund Operating Deficits may be enforced against the Declarant and collected by the Association in the same manner as enforcement and collection of assessments applicable to other Owners.

After the end of the Declarant Control Period, the Declarant, at its sole option, may receive an assessment credit toward payment of annual assessments due and payable by Declarant thereafter for Lots owned by Declarant, in an amount equal to aggregate of the Operating Deficits paid by Declarant as provided herein. Declarant may not charge or collect interest or any other charge or fee on any monies paid by the Declarant, for Operating Deficits. As determined by Declarant, the assessment credit may be applied to payment of all annual

assessments due from Declarant after the end of the Declarant Control Period until it has been credited in full.

(g) Certificate of Payment. The Association shall, within ten (10) business days after receipt of a written request from an Owner or the Owner's authorized agent, and for such reasonable charge as the Board may determine, furnish a certificate signed by an officer of the Association, or by a Person or employee of any Person employed by the Association and to whom the Association has delegated the authority to issue such certificates, setting forth whether the assessments and other charges against a specified Lot have been paid. If such certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment and is binding on the Association, the Board, and every Owner.

Section 17.A.6 Membership and Governance.

(a) Membership. The Declarant and every Owner within the Properties shall be a Member of the Association, and by execution of this Declaration or by acceptance of a deed conveying to such Owner title to any Lot, each Owner consents to be a Member of the Association, subject to the terms of the Governing Documents. Membership shall be appurtenant to and may not be separated from ownership of the Member's Lot. The foregoing is not intended to include any Person that holds an interest merely as security for the performance of an obligation. Upon termination of ownership, an Owner's membership with respect to the transferred Lot shall automatically terminate and be automatically transferred to the new Owner of the Lot.

(b) Members' Rights of Use. Each Member and lawful occupant in the Properties shall have a non-exclusive right of use and enjoyment and easement in the Common Areas, including the right of ingress and egress to and from all Common Areas throughout the Properties, subject to such rules and regulations as are allowed under the Governing Documents to be imposed by the Association and subject to suspension of use rights allowed in the Governing Documents; provided that no suspension of rights shall occur without first providing notice of the charge, opportunity to be heard and to present evidence, and notice of the decision as required by G.S. 47F-3-107.1 of the Act. But, the right of access and support, the right to drain stormwater and the right to use Stormwater Control Measures, private streets, private utility services provided to the Lot through easements in Common Area, and any assigned parking areas shall not be suspended for violation of the Association's rules and regulations.

(c) Voting Rights. Each Member shall have those voting rights established in this Declaration, which may be different for different classes of membership. If a Lot is owned by multiple Owners, the votes allocated to that Lot shall be cast only in accordance the agreement of a majority in interest of the multiple Owners unless otherwise provided in the Governing Documents. A majority agreement is conclusively presumed if only one of the multiple Owners casts the votes allocated to that Lot, unless any of the other Owners of the Lot protest such co-Owner's vote promptly to the Person presiding at the meeting.

(d) Proxies. Votes may be cast in person or by proxy. All proxies must be

dated, duly executed by the Owner, and delivered to the Secretary of the Association or to the property management company authorized by the Board to receive proxies prior to the opening of the meeting for which it is first intended to be used. No proxy shall exceed a term of eleven (11) months from its date except as otherwise provided in the Act. Revocation of a proxy shall be made by actual notice to the Person presiding over the Association meeting.

(e) Quorum. Except as otherwise provided in the Governing Documents, a quorum is present throughout any meeting of the Association whenever Persons entitled to cast ten percent (10%) of the votes are present in person or by proxy at the beginning of the meeting. In the event business cannot be conducted at any meeting because a quorum is not present, that meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy. Notwithstanding any provision to the contrary in the Governing Documents, the quorum requirements at the next meeting shall be one-half (1/2) of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

Section 17.A.7 Permanently Protected Undisturbed Open Space Areas. Within any permanently protected undisturbed open space areas shown on any recorded plat of the Properties, there must not be any land disturbing activity, any placement of impervious surfaces, any tree disturbing activity (as defined in Part 10, Chapter 2 of the Code), any new development or expansion thereof, or new use, construction, or encroachment without first obtaining a watercourse permit from the City. Permanently Protected Undisturbed Open Space may or may not be Open Space as defined in this Declaration.

Section 17.A.8 Tree Conservation. The Association shall have a conservation easement for the planting of trees and for the protection and Maintenance of the trees situated within any tree conservation areas shown on any recorded plat of the Properties. No tree disturbing activity, as defined in Part 10, Chapter 2 of the Code, shall be permitted in tree conservation areas in violation of the Code. Any tree disturbing activity undertaken in tree conservation areas or in permanently protected undisturbed open space areas shown on recorded plats of the Properties without a permit from the City or otherwise in violation of the Code is a violation of the Code and may result in significant financial consequences to the Owner and to the Person responsible for such tree disturbing activity. Owners and their agents may, however, with the consent of both the City and of the Association, enter tree conservation areas to perform active tree protection measures (as defined in the Code), to plant trees, to remove dead or diseased trees, or to plant replacement trees, provided, however, that Association consent shall not be required, unless otherwise required by other provisions of this Declaration or Governing Documents, if the tree conservation area in which the Owner desires to perform active tree protection measures or plant trees, remove dead or diseased trees and to plant replacement trees is located on that Owner's Lot.

Section 17.A.9 Insurance. Commencing not later than the time of the first conveyance of a Lot to a Person other than the Declarant, the Association shall procure and Maintain (i) hazard insurance on the Common Area, insuring against all risk of loss commonly

insured against, including fire and extended coverage of peril, and (ii) liability insurance, in an amount of not less than one million dollars ($1,000,000.00), covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use ownership or Maintenance of Common Area. The Association shall obtain and Maintain such other insurance as required in this Declaration or such other forms of insurance, and in such coverage amounts, as determined by the Board to be required or beneficial for the protection or preservation of the Common Area and other property of the Association or otherwise is in the best interests of the Association. The premiums for such insurance shall be a Common Expense paid from the annual assessments as established pursuant to this Declaration.

Section 17.A.10 Indemnification. No immunity, exculpation or indemnification provision of this Declaration shall relieve one or more Owners from it's liabilities as an Owner under this Declaration and other Governing Documents.

Section 17.A.11 On-Street Parking. Any restriction on the right to park vehicles on public streets contained in this Declaration shall only be applicable to the Owners and their family members and tenants.

Section 17.A.12 Sight Triangles. No sight obstructing or partially obstructing wall, fence, foliage, berm, parked vehicle or sign between two feet and eight feet tall, as measured above the curb line elevation or the nearest traveled way if no curb exists, shall be placed within any area designated on a recorded map of the Properties as a sight triangle or other similar designation. An easement over sight triangles is reserved for the benefit of the Declarant, the Association, and the City, and their respective agents and contractors for the purpose of removing any such obstruction, and a Person entering onto a Lot pursuant to such easement for the purpose of removing such obstruction shall not be deemed a trespasser and shall not be liable for damages to the Association or the Owner of the Lot with respect to the obstruction removed from the sight triangle. It shall be the responsibility of the Association (as to Common Area) or Owner of the Lot, as soon as reasonably practicable following removal of any obstruction from the sight triangle, to restore the portion of the Properties previously occupied by the removed obstruction to the condition required or permitted by the Code and the Governing Documents.

Section 17.A.13 Annexed Property. Real property which was not part of the City-approved development, or real property that was part of the City-approved development but which was not subjected to this Declaration at the time of its initial recording, may be annexed to this Declaration and made part of the Properties as Annexed Property, provided that all of the following conditions are met with respect to the real property to be annexed:

(a) the Annexed Property is contiguous to the Properties or directly across a street from the Properties;

(b) any development of the Annexed Property is first approved by the City;

(c) annexation of such Annexed Property meets any other applicable requirements of this Declaration; and

(d) contemporaneously with either the development of the Annexed Property or the recording of the plat of the Annexed Property, whichever first occurs, an Annexation Declaration shall be recorded in the Registry.

No Annexation Declaration shall be valid without the prior written approval of the Raleigh City Attorney or his/her deputy. Evidence of such approval shall be indicated by the signature of the City Attorney or his/her deputy on the recorded original or copy of the Annexation Declaration. Any Annexation Declaration recorded without the required City approval is void *ab initio*. An Annexation 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 Annexed Property and as are not inconsistent with the general scheme of this Declaration. Each Annexation Declaration shall state that title to the Common Area that is included within the Annexed Property shall be conveyed to the Association no later than the time of the conveyance of the first Lot within the Annexed Property, and any Open Space in the Annexed Property shall be conveyed in fee simple without any encumbrances except drainage, greenway, utility and conservation easements and this Declaration. Open Space in the Annexed Property is subject to all Code and Declaration provisions relating to Open Space. Each Annexation Declaration shall state the amount of the Stormwater Assessment for Lots in the annexed Property when required by Part B, Section 6 of this Article.

Annexation of the Annexed Property shall be effective upon the later of the recording of the Annexation Declaration in the Registry or such later date as specified in the Annexation Declaration, and the Annexed Property described therein shall be subject to all of the provisions of this Declaration to the extent made applicable by the Annexation Declaration, and to the jurisdiction of the Association pursuant to the terms of this Declaration and other Governing Documents of the Association. Each Owner of a Lot in Annexed Property shall be a Member of the Association, and the Annexed Property and each Owner of any portion thereof shall be subject to assessment by the Association in accordance with the terms of this Declaration, the Annexation Declaration, other Governing Documents, the Code, and the Stormwater Agreement, as applicable. The Association shall have the duties, responsibilities and powers set forth in this Declaration and other Governing Documents with respect to Annexed Property. Except as may otherwise be expressly provided in this Declaration or any Annexation Declaration, the Properties, including the Annexed Property, shall be managed and governed by the Association as an entirety. Assessments for Common Expenses collected from Owners in the Annexed Property may be expended by the Association for Common Expenses anywhere in the Properties without regard to the particular phase, area or subdivision from which such assessments came.

Section 17.A.14 Access Easement for Repair of Structures. A perpetual access easement over an adjoining Lot hereby is established in favor of each Owner or tenant of a residence or business, and the contractors of such Owner or tenant, whose residence or business is located closer than five (5) feet from an adjoining Lot line, for the purpose of allowing the residence or business to be Maintained. No fence, wall, storage shed, or similar structure or any other kind of obstruction shall be permitted in the easement area that will obstruct access to the residence or business.

Section 17.A.15 Access for Governmental Agencies. A non-exclusive, perpetual right of access over all Lots and Common Areas (including private streets, if any) in the Properties is hereby established for the benefit of Governmental Entities for installing, removing and reading water meters, Maintaining and replacing water and sewer facilities, fire lines, and acting for other purposes consistent with public safety and welfare, including law enforcement, fire protection, animal control, emergency services, garbage collection and the delivery of mail.

Section 17.A.16 Conveyance or Dedication of Common Areas. Common Areas, including Open Space, shall either be conveyed to the Association in fee simple without any encumbrances except this Declaration, the Stormwater Agreement, the Declaration of Easements, Covenants, Conditions and Restrictions of Overlook, recorded in Book 8529, Page 1060, Wake County Registry, the Maintenance Agreement, Public Pedestrian Easements and other matters shown on the Recorded Plat, drainage, greenway, utility and conservation easements of record at the time of conveyance, and the lien of real property taxes not yet due and payable, or conveyed to the City as allowed or required under the Code. Common Areas may be conveyed to the City free of part or all of the provisions of this Declaration, as determined by the Declarant and the City. Title to Common Areas shall be conveyed to the Association or to the City no later than the time of the conveyance of the first Lot within the applicable phase of the Properties. The Association shall accept all Common Areas, including the improvements installed thereon by the Declarant, deeded to it and/or dedicated to it on any recorded plat of the Properties, whether or not the conveyance or dedication occurs prior to the time of the conveyance of the first Lot within the applicable phase of the Properties.

Section 17.A.17 Private Utility Lines. Any water or sewer line that serves more than one Lot and which is either located outside of any public street right-of-way or outside of any City utility easement shall be owned and Maintained by the Association as Common Area. In no case shall the City or the State of North Carolina be responsible for Maintaining any such private utility line or be responsible for the consequences for any blockage, backflow, break or leak in said utility line. Such responsibility shall rest with the Association (or applicable Sub-Association) and Owners of Lots within the Properties. Accordingly, the City shall not be responsible for failing to provide regular or emergency utility services to any cluster unit development, unit Ownership (condominium) development, group housing development, townhouse development, or manufactured home park or their occupants when such failure is due to inadequate design or construction, blockage, backflow, leakage, inadequate maintenance, or any other factor within the control of the Declarant, the Association, or the Owners or occupants of the Properties.

The provisions of this Section shall be incorporated into all conveyances of any part or all of the Properties, which incorporation may be by reference to this Declaration. Provided, however, the provisions of this Section and all other provisions of this Declaration are applicable to the portions of the Properties conveyed and the Owners thereof, whether or not any such provisions are incorporated into the conveying documents.

Section 17.A.18. Landscape Easements. The Association shall be responsible for

Maintaining and replanting any shrub or tree located within any area designated on a recorded map of the Properties as a landscape easement or similar designation. Association expenses for Maintaining or replanting any shrub or tree located in a landscape easement or similar designation are Common Expenses. Whenever a slope easement co-exists, in whole or in part, within a designated landscape easement, and any future public improvement adjacent to the slope easement removes or causes any of the shrubs or trees within the slope easement to die or become unhealthy (as defined in Part 10 Chapter 2 of the Code), it shall be the responsibility of the Association to replace the shrubs and trees in accordance with the minimum applicable quantity, size and spacing requirements of the Code within one-hundred and eighty days of completion of the public improvement. Within any area designated on recorded maps of the Properties as a landscape easement or similar designation, no vegetation shall be removed without the prior written consent of the Association. Notwithstanding the foregoing, no Governmental Entity shall be required to obtain the consent of the Association when working within slope easements, greenway easements or construction easements.

PART B
STORMWATER
(CODE SECTIONS 10-5007 and 10-9027)

Section 17.B.1 Stormwater Control Measures. The Code requires that stormwater runoff from the Properties be controlled and nitrogen loading from stormwater runoff from the Properties be reduced. To comply with the Code, Stormwater Control Measures will be installed by the Declarant and Maintained by the Association as Common Area or Limited Common Area (or by a Sub-Association as Sub-Association Common Area or Sub-Association Limited Common Area) in strict compliance with the Stormwater Operations and Maintenance Manual and Budget attached to the Stormwater Agreement for the Properties so that, at all times, the Stormwater Control Measures shall perform as designed and shall comply with the Stormwater Agreement, the Code and applicable regulations, rules and directives of the City. The expenses for Maintenance of Stormwater Control Measures by the Association shall be Common Expenses (or, if applicable, Limited Common Expenses). Failure to Maintain the Stormwater Control Measures is a violation of the Code potentially subjecting each Owner of a Lot to significant daily civil penalties and other enforcement actions.

Section 17.B.2 Creation of Stormwater Assessments. Each Owner, by execution of this Declaration or by acceptance of a deed or other instrument conveying title to a Lot, whether or not it shall be so expressed therein, is deemed to covenant and agree to pay to the Association (or to any Person who may be designated by the Association to collect such monies) a Stormwater Assessment, as hereinafter defined, established and collected as hereinafter provided, and each Owner of a Lot, by acceptance of a deed or other instrument conveying title to a Lot, whether or not it shall be so expressed therein, is deemed to covenant and agree to pay to the Association (or to any person who maybe designated by the Association to collect such monies) such Stormwater Assessment. For the calendar year in which the first lot is conveyed, the Stormwater Assessment is Twenty and 88/100ths Dollars ($20.88) per year. Stormwater Assessments shall commence with respect to each Lot on the later of the date on which this Declaration or applicable Annexation Declaration is recorded or the date on which a plat is

recorded establishing the Lot. The annual budget for the Association shall include a line item evidencing the Stormwater Assessments, and the amount budgeted shall be sufficient to satisfy the total annual inspection, management and Maintenance budget for the Stormwater Control Measures as set forth in the Stormwater Operations and Maintenance Manual and Budget attached to the Stormwater Agreement as an exhibit, and any replacement contribution payment owed to the City pursuant to the Stormwater Agreement. The Association shall honor its obligations under the Stormwater Agreement, and the Association shall assess the Stormwater Assessment. The Declarant and each Owner of a Lot shall be obligated to pay the Stormwater Assessment, whether or not the annual budget contains the required line item for the Stormwater Assessment, and whether or not the annual budget is ratified by the Members of the Association. No vote of the Owners is required to levy, collect, or foreclose a Stormwater Assessment. Stormwater Assessments shall be paid to the Association at the same time annual assessments are due.

In the event of nonpayment of any Stormwater Assessment for a period of thirty (30) days or longer after the payment due date, such Stormwater Assessment, together with interest at a rate not to exceed the highest rate allowed by North Carolina law, as computed from the date the delinquency first occurs, late charges, and costs of collection thereof, including reasonable attorney's fees, shall be a charge on the land upon the filing of a claim of lien, in the manner provided in G.S.47F-3-116(g), in the office of Clerk of Superior Court in the County in which the Lot is located and shall be a continuing lien upon each Lot against which the assessment is made until paid in full. The lien may be foreclosed in accordance with North Carolina law, or in any other manner permitted under the Act or by law. When the holder of a first mortgage or first deed of trust of record or other purchaser of a Lot who obtains title to the Lot as a result of a foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns shall not be liable for the Stormwater Assessments against such Lot which became due prior to the acquisition of title to such Lot by such purchaser. In such instances, such unpaid assessments shall be deemed Common Expenses collectible from all Owners, including the new Owner.

Each Stormwater Assessment, together with late charges, interest, the costs of collection thereof, including attorney's fees, shall also be the personal obligation or corporate obligation of each Person who was the Owner of the Lot at the time when the Stormwater Assessment first became due and payable. If more than one Person held an ownership interest in the Lot at the time the Stormwater Assessment first became due, then each Person shall be both jointly and severally liable. An Owner's personal obligation for payment of Stormwater Assessments shall not become the personal obligation of a subsequent Owner unless expressly assumed by the subsequent Owner, although the lien shall continue against the Lot until the amount due is paid.

The creation of the Stormwater Assessments is for the benefit of the City, and the Stormwater Assessments may be collected and enforced by the City as provided herein and in the Code.

Section 17.B.3 Purpose of Stormwater Assessments. The Stormwater Assessments to be levied by the Association against each Lot shall be used as follows:

(a) to pay the actual and estimated expenses incurred or anticipated to be incurred by the Association, including any reasonable reserve funds, under any Stormwater Agreement, including Maintenance of the Stormwater Control Measures in strict compliance with the Stormwater Operations and Maintenance Manual and Budget attached to the Stormwater Agreement as an exhibit, so that, at all times, the Stormwater Control Measures shall perform as designed and shall comply with the Stormwater Agreement, the Code, applicable regulations and rules and directives of the City;

(b) to pay all legal, engineering and other professional fees incurred by the Association in carrying out its duties as set forth herein, or in the Governing Documents, or in the Stormwater Agreement in connection with the Stormwater Control Measures; and

(c) payments to the City pursuant to the Stormwater Agreement.

Section 17.B.4 Assignment of Collection Rights and Lien Rights the City. Pursuant to the Stormwater Agreement and G.S.47F-3-102(15) of the Act, the Association has assigned to the City its rights to collect Stormwater Assessments, its rights to file liens against the Lots, and the right to foreclose on those liens for monies owed by the Association to the City pursuant to the Stormwater Agreement. The Association shall have a license to collect Stormwater Assessments, to file liens against the Lots, and to foreclose on those liens for monies owed by the Association to the City pursuant to the Stormwater Agreement until such time as the City notifies the Association in writing that it has elected to exercise its right to collect Stormwater Assessments, to file liens against the Lots, and/or to foreclose on those liens for monies owned by the Association to the City pursuant to the Stormwater Agreement. Declarant hereby irrevocably authorizes and directs each Owner to rely upon any written notice sent to such Owner by the Association that the City has elected to exercise its rights hereunder and thereafter to pay Stormwater Assessments directly to the City without any obligation or right to inquire otherwise until such time such Owner receives written notice from the City to pay the Stormwater Assessments directly to the Association. As the assignee of the Association's collection and lien rights, upon the filing of a claim of lien by the City, any such lien may be foreclosed in like manner as a mortgage on real estate pursuant to power of sale under Articles 2A of Chapter 45 of the General Statutes from and after the time of recording a claim of lien in the office of the clerk of superior court of the county in which the Lot is located; which claim of lien shall state the description of the Lot(s) encumbered by the claim of lien, the name and address of the Association and of the City, the record Owner(s) of the encumbered Lot(s) at the time the claim of lien is filed, and the amount of the lien claim. The claim of lien shall be filed any time after a period of thirty (30) days or longer of default and the lien shall continue in effect until all sums secured by the lien as herein provided shall have been fully paid. Such claims of lien shall include all sums that are due and payable when the claim of lien is filed, plus late charges, interest at the rate set forth in the Stormwater Agreement, but not to exceed eighteen percent (18%) per year, collection costs, and reasonable attorney's fees. Any lien claim filed by the City shall be signed by the City Manager. Upon full payment of all sums secured by such claims of lien, the same shall be satisfied of record.

Section 17.B.5 Effect of Assignment. Each Owner of a Lot, by acceptance of a deed or otherwise, vests in the City, as the assignee of the Association's collection and lien rights for the Stormwater Assessments, the right and power, upon nonpayment of the Stormwater Assessments by the Association, to bring all actions against each Owner, personally, for the collection of such charges as a debt or to foreclose the lien, which charges and lien amounts shall equal a pro-rata share of the Stormwater Assessments for each Owner. The lien provided for in this Article shall be in favor of the City and shall be for the benefit of all Owners.

Section 17.B.6 Annexation of Additional Property. As set forth in this Declaration, additional real property from time to time may be annexed to the Properties and subjected to this Declaration. Such Annexed Property shall also be subjected to existing Stormwater Agreements and/or new Stormwater Agreements, in accordance with the following:

In connection with the recording of an Annexation Declaration, either a new Stormwater Agreement and/or an amendment to an existing Stormwater Agreement (as determined by the City) shall be entered into among the City, Declarant, and Association to address the Stormwater Control Measures of the Annexed Property. Except in those instances where the Stormwater Agreement already contains contribution payments for the Annexed Property, the Annexation Declaration shall establish an new Stormwater Assessment for the Lots in the Annexed Property with respect to all new Stormwater Control Measures located in or serving such Annexed Property, and such new Stormwater Control Measures shall be designated as Common Area or Limited Common Area, as appropriate, on the recorded plat(s) of the Annexed Property. The new Stormwater Assessment shall be sufficient to Maintain the new or additional Stormwater Control Measures in or serving the Annexed Property and to pay the applicable replacement contribution payments to the City under the new or amended Stormwater Agreement, and such Stormwater Assessment shall be assessed against the Owners of the Lots of the Annexed Property and Owners of the existing or future Lots served by the same Stormwater Control Measures.

Section 17.B.7 Drainage Easement. The Declarant dedicates, establishes and declares to and for the benefit of each Lot, the Common Area and each Owner hereof:

(a) a perpetual, irrevocable and nonexclusive easement, right and privilege to discharge and store surface water drainage from such Lot or Common Area into the Stormwater Control Measures situated in private drainage easements that serve the Properties, whether located on or off or the Properties, and

(b) a perpetual, irrevocable and non-exclusive easement, right and privilege to use and Maintain Stormwater Control Measures, including the right of access to and from the private drainage easements and other portions of the Properties as reasonably necessary to Maintain the Stormwater Control Measures.

Section 17.B.8 Joint and Several Liability. Each Owner of any portion of the Properties served by Stormwater Control Measures is jointly and severally responsible for Maintenance of such Stormwater Control Measures, including payment of any unpaid *ad*

valorem taxes, public assessments for improvements, and unsafe building and public nuisance abatement liens charged against the Stormwater Control Measures, and including all interest charges thereon, together with the costs and expenses of collection incurred by the City or other collecting Person, including court costs and reasonable attorney's fees actually incurred. Each Owner of any portion of the Properties served by the Stormwater Control Measures has a right of contribution against all other Owners of other portions of the Properties served by the same Stormwater Control Measures for payment of such costs and expenses to the extent that the Owner having such right of contribution pays more than such Owner's prorata share thereof, such prorata share being determined either by other assessment provisions of this Declaration or by dividing the acreage of such Owner's portion of the Properties served by the Stormwater Control Measures by the total acreage of the Properties served by the same Stormwater Control Measures.

Section 17.B.9 Relocation of Drainage Easements. Drainage easements situated on the Properties may be relocated only by a written agreement signed by the Association - upon approval of the Board of Directors without vote of the Members - and by the Owners of all portions of the Properties on which the drainage easement then is located, and by the Owners of all portions of the Properties on which the drainage easement is to be relocated. The consent of tenants and Mortgagees of the affected Lots shall not be required for the relocation to be effective. All relocations of a drainage easement shall be accompanied with a letter sealed by a professional engineer licensed in the State of North Carolina stating that the relocated drainage easement will not cause any adverse stormwater runoff unto adjoining properties.

Notwithstanding anything herein to the contrary, no relocation of any drainage easement shall be valid without the without the prior approval of the Raleigh Chief Engineer or his/her Deputy. City approval shall be evidenced by the signature of the Raleigh Chief Engineer or his/her Deputy on the recorded plat or other instrument of the relocation. Any relocation without the required City signature is void *ab initio*.

Relocation of a drainage easement is valid from the later of the time of either recording of the plat or other instrument of relocation in the Registry or such later date specified therein.

PART C
CLUSTER UNIT DEVELOPMENT
(CODE SECTIONS 10-2101, 10-3071 and 10-3073)

Any portion of the Properties that is part of a "cluster unit development", as that term is defined in the Code, is subject to all of the following:

Section 17.C.1 Open Space. In addition to other provisions of this Article (*see* e.g., Part A, Sections 6, 16 and 17), all Open Space is subject to the following:

(a) Preservation. Open Space and private streets shall be preserved for the perpetual benefit of the Owners of the Lots within the Properties, and shall be restricted against private or public ownership for any other purpose except acquisition by condemnation or in lieu

of condemnation and the granting of utility, drainage, conservation and greenway easements.

(b) Exchange. Open Space shall not be subsequently subdivided or conveyed by the Association. However, nothing herein shall prevent the exchanging of Open Space for other properties when all of the following are met:

(i) written notice of the exchange is given to each Member of the Association;

(ii) after the notice is given, those Members having the minimum percentage of votes in the Association required by the Act or any greater percentage required by this Declaration gives written approval of the exchange;

(iii) the exchanged properties and other considerations are of like value and utility;

(iv) the acreage and configuration of the remaining Open Space (including real property to be received by the Association in such exchange) equals or exceeds the requirements of the Code; and

(v) the exchange is approved by the Planning Director of the City.

(c) Dissolution. If the Association is dissolved, the Open Space shall first be offered to the City, and, if accepted, deeded to the City.

(d) Recreation. Recreational uses located in Open Space and other Common Areas shall comply with the provisions of Code Section 10-2072 related to recreational use related to a residential development, other than a single-family dwelling unit. Membership fees shall not be charged to non-members of the Association for any recreation facility located in a residential zoning district unless the facility is owned by a non-profit entity and a special use permit is first obtained from the Raleigh Board of Adjustment in accordance with Code Section 10-2144(b), "Recreational Use Restricted to Membership - Not for Profit".

(e) Mortgaging of Open Space. Open Space may be subjected to a security interest with the written approval by those Members who have the minimum percentage of votes in the Association required by the Act or any greater percentage required by this Declaration, and provided that the rights of the mortgagee are subordinate to the rights of the Owners and the Association.

Section 17.C.2 Residential Density Transfers. The Properties are developed as a cluster unit development approved by the City. Residential density transfers are permitted in a cluster unit development as allowed in the Code. Accordingly, even though some Lots may appear to contain enough land area to construct additional dwelling units or create additional Lots, prior density transfers approved within the cluster unit development may, in fact, preclude City approval of additional dwellings or further subdividing of Lots.

Section 17.C.3 Development Rights. Development rights retained by the Declarant as special Declarant rights, including the right to add real estate to the cluster unit development, to add dwelling units, to add Common Areas, to change dwelling unit types within the cluster, or to reallocate units within the cluster, as well as all conditions and limitations applied to the exercise of any such development rights, are described in other Articles and Sections of this Declaration. Exercise of any of the development rights described in this Section is subject to the prior approval of the City.

Section 17.C.4 Addition of Land. The maximum amount of land that can be added to the cluster unit development is as follows: zero acres.

Section 17.C.5 Number of Dwelling Units. The maximum number of dwelling units and the maximum number of dwelling units per acre that can be contained in the cluster unit development, or transferred to portions of the cluster unit development without rezoning the real property to another zoning classification for additional dwelling units, are as follows (for purposes of this Section, the cluster unit development includes all portions of the Properties initially subjected to this Declaration that are part of the cluster unit development, together with all Annexed Property that becomes subject to this Declaration and is part of the cluster unit development):

(a) maximum number of dwelling units allowed in the cluster unit development is 130;

(b) maximum number of dwelling units per acre allowed in the cluster unit development is 8.3.

PART D
TOWNHOUSE DEVELOPMENT
(CODE SECTIONS 10-2109, 10-3072 AND 10-3073)

Any portion of the Properties that is part of a "townhouse development", as that term is defined in the Code, is subject to all of the following. A townhouse development may be, but is not required to be, part of a cluster unit development. Any townhouse development that is part of a cluster unit development is also subject to the provisions of the Code applicable to cluster unit developments (some of which may be identical to the following provisions), except as otherwise provided in the Code:

Section 17.D.1 Open Space. In addition to other provisions of this Article (*see* e.g., Part A, Sections 6, 16 and 17), all Open Space is subject to the following:

(a) Townhouse Open Space. Townhouse Open Space and private streets used for the exclusive benefit of townhouse residents are Limited Common Area or Sub-Association Common Area when the townhouse development is part of a cluster unit development containing other housing types.

(b) Preservation. Open Space and private streets shall be preserved for the perpetual benefit of the Owners of the Lots within the Properties, and shall be restricted against private or public Ownership for any other purpose, except acquisition by condemnation or in lieu of condemnation and the granting of utility, drainage, conservation and greenway easements.

(c) Exchange. Open Space shall not be subsequently subdivided or conveyed by the Association. However, nothing herein shall prevent the exchanging of Open Space for other properties when all of the following are met:

(i) written notice of the exchange is given to each Member of the Association;

(ii) after the notice is given, those members having the minimum percentage of votes in the Association required by the Act or any greater percentage required by this Declaration gives written approval of the exchange;

(iii) the exchanged properties and other considerations are of like value and utility;

(iv) the acreage and configuration of the remaining Open Space (including real property to be received by the Association in such exchange) equals or exceeds the requirements of the Code; and

(v) the exchange is approved by the Planning Director of the City.

(d) Dissolution. If the Association is dissolved, the Open Space shall first be offered to the City, and if accepted, deeded to the City.

(e) Recreation. Recreational uses located in Open Space and other Common Areas shall comply with the provisions of Code Section 10-2072 related to recreational use related to a residential development, other than a single-family dwelling unit. Membership fees shall not be charged to non-members of the Association for any recreation facility located in a residential zoning district unless the facility is owned by a non-profit entity and a special use permit is first obtained from the Raleigh Board of Adjustment in accordance with Code Section 10-2144(b), "Recreational Use Restricted to Membership - Not for Profit".

(f) Mortgaging of Open Space. Open Space may be subjected to a security interest with the written approval by those Members having the minimum percentage of votes in the Association required by the Act or any greater percentage required by this Declaration, and provided that the rights of the mortgagee are subordinate to the rights of the Owners and the Association.

Section 17.D.2 Common Party Walls. All common party walls between individual residences shall conform to the requirements of the North Carolina State Building Code. The

following rules also apply to common party walls between individual residences:

(a) Each wall which is shared by residences and placed on the dividing line between the residences shall constitute a common party wall and, to the extent not inconsistent with the provisions of this Section or the Code, the general rules of law regarding common party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) The cost of reasonable Maintenance of a common party wall shall be shared by the Owners of the residences that share the common party wall, in proportion to such use. Provided, however, each Owner is responsible for usual and routine Maintenance (for example, painting) of the portion of any party wall on the inside of such Owner's residence.

(c) If a common party wall is destroyed or damaged by fire or other casualty, any Owner of a residence which shares such common party wall may restore or repair it, and the Owners of the other residences which share the restored or repaired common party wall shall, within twenty-one (21) days of the receipt of a request for payment and invoices showing the cost of such restoration or repair, contribute to the cost of the restoration or repair thereof (or reimburse the Owner who has paid such costs) in proportion to their use of the common party wall, without prejudice, however, to the right of any such Owner to demand a larger contribution from the other Owners under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Notwithstanding any other provision of this Section, an Owner of a residence which shares a common party wall who, by such Owner's negligent or willful act or omission, damages or causes the common party wall to be exposed to the elements shall bear the entire cost of the necessary repair or restoration.

(e) The right of any Owner to contribution from any other Owner under this Section with respect to all matters occurring prior to the transfer of title of the Lot to a subsequent Owner may be retained by the transferring Owner to the extent that the transferring Owner paid any expenses for which contribution is available; otherwise, the right of contribution shall be transferred to the subsequent Owner. The amount owed shall constitute the personal debt of the Owner from whom it is owed, and the Owner to whom the contribution is owed shall have all remedies available at law or in equity to enforce such Owner's right of contribution. An Owner's obligation for contribution is appurtenant to and shall run with title to such Owner's Lot.

(f) An Owner who desires to sell a residence, or the prospective purchaser of such residence, may request the Owners of each other residence which shares that common party wall to provide a certificate stating whether or not such certifying Owner has any right or obligation of contribution with respect to such common party wall against the Owner who desires to sell. Each certifying Owner from whom such certificate is requested, shall, within ten (10) days after receipt of a written request for certification, furnish same to the requesting Owner or purchaser, as applicable, either confirming that no right of contribution exists or stating the

amount of and reasons for the contribution claimed against the requesting Owner. A certificate signed by any one or more of the Owners of a residence which shares a common party wall with the residence of the requesting Owner shall be conclusive evidence of its contents with respect to all other Owners of that residence and with respect to third parties.

(g) Each Owner of a residence which shares a common party wall with one or more other residences and such Owner's contractors and subcontractors shall have an easement and right of entry upon such other residences or businesses to the extent reasonably necessary to repair, restore, Maintain or reconstruct the common party wall. Such repair, restoration, Maintenance or reconstruction shall be done expeditiously and, promptly upon completion of the work, the Owner on whose behalf the work is being done shall restore all portions of the adjoining residences or businesses damaged as a result thereof to substantially the same condition as that which existed at the time the work commenced.

PART E
PLANNED DEVELOPMENT CONDITIONAL USE OVERLAY DISTRICT
(CODE SECTION 10-2057)

The Property is part of a "Planned Development Conditional Use Overlay District", as that term is defined in the Code, and therefore every owner of property in the following described properties shall have a nonexclusive, perpetual right and easement of use and enjoyment in and to the Open Spaces and Public Pedestrian Easements located upon the Property, which easement shall be appurtenant to the following benefited properties:

> All lots comprising a portion of that certain tract of land designated as Lot 1, containing 27.2751 acres, or Lot 2, containing 15.3485 acres, according to a plat of survey entitled, "Final Plat, Property of: Summit Properties Partnership, L.P., Raleigh, Wake County, North Carolina", dated January 20, 2000, prepared by John A. Edwards, Jr., Registered Land Surveyor, and recorded in Book of Maps 2000, Page 331, Wake County Registry.

The easement rights granted herein shall run contemporaneously with (and be coterminus with) the easement rights granted in that certain Declaration of Easements, Covenants, Conditions and Restrictions for Overlook, recorded in Book 8529, Page 1060, Wake County Registry, and shall be extended and be may be amended and/or terminated only in accordance with the terms governing the easements granted in such Declaration.

PART F
CITY GREENWAYS
(CODE SECTIONS 10-3003 AND 10-3022)

[Intentionally Deleted]

PART G
PRIVATE STREETS
(CODE SECTION 10-3074)

Section 17.G.1. Private Streets. Pursuant to Code Section 10-3074 (b) and (c), all of the following are applicable to private streets in the Properties:

(a) In no case shall the City be responsible for failing to provide any emergency or regular fire, police or other public service to any cluster unit development, unit Ownership (condominium) development, group housing development, townhouse development, or manufactured home park or to the occupants of same when such failure is due to lack of access to such areas due to inadequate design, construction or blocking of access routes, inadequate Maintenance, or any other factor within the control of the Declarant, the Association, the Owners or the occupants of the Properties.

(b) In no case shall the City or the State of North Carolina be responsible for Maintaining any private street. Such responsibility shall rest with the Association (or applicable Sub-Association) and Owners of Lot within the Properties, in that such private streets will not be constructed to the minimum standards sufficient to allow their inclusion for public Maintenance.

(c) The provisions of this Section shall be incorporated into all conveyances of any part or all of the Properties, which incorporation may be by reference to this Declaration; provided, however, the provisions of this Section and all other provisions of this Declaration are applicable to the portions of the Properties conveyed and the Owners thereof, whether or not any such provisions are incorporated into the conveying documents.

PART H
GATED COMMUNITY
[CODE SECTION 10-3074(d)]

[Intentionally Deleted]

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IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed, and if corporate, by due authority, as of the date first above written.

DECLARANT:

PULTE HOME CORPORATION,
a Michigan corporation

By: Stephen P. Schlageter
Name: Stephen P. Schlageter
Title: Division President

STATE OF NORTH CAROLINA

COUNTY OF WAKE

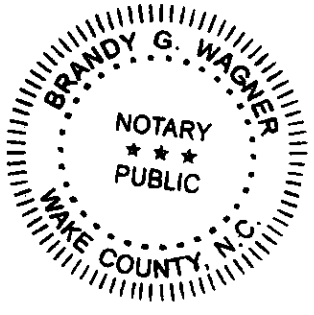
I, a Notary Public of the County and State aforesaid, certify that Stephen P. Schlageter personally came before me this day and acknowledged that he is the Division President of PULTE HOME CORPORATION., a Michigan corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him as Division President on behalf of said corporation.

WITNESS my hand and official stamp or seal, this 15th day of Feb, 2006.

Brandy G. Wagner
NOTARY PUBLIC

My Commission Expires: 10-20-2009

[NOTARIAL SEAL]



APPROVAL OF THE RALEIGH CITY ATTORNEY

In accordance with the ordinances and regulations of the City of Raleigh, the [Deputy] City Attorney of the City of Raleigh has approved this Declaration.

Ira Botvinick
[Deputy] City Attorney

NORTH CAROLINA

Wake COUNTY

I, Connie J. Joyner, a Notary Public of Wake County, North Carolina, do hereby certify that Ira Botvinick, as [Deputy] City Attorney of the City of Raleigh, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this 16th day of February, 2006.

Connie J. Joyner
Notary Public

My commission expires:

05/19/2001

[NOTARY SEAL]



EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lying and being in Wake County, North Carolina, and being all of that land, consisting of 15.329 acres, more or less, consisting of Private Roadways, Common Open Space and Building Lots, as shown on that certain plat entitled "'The Townes at Crabtree' Subdivision Plat" and recorded in Book of Maps 2006, Pages 251-260, Wake County Registry.

EXHIBIT B

CERTIFICATION OF VALIDITY OF
AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
THE TOWNES AT CRABTREE

By the authority of its Board of Directors, The Townes at Crabtree Homeowners Association, Inc., hereby certifies that the foregoing instrument has been duly adopted and approved by the requisite percentage of Owners of Lots in The Townes at Crabtree and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of The Townes at Crabtree.

As of the _____ day of _____, _____.

THE TOWNES AT CRABTREE HOMEOWNERS ASSOCIATION, INC.

By: _____
_____ President

STATE OF NORTH CAROLINA)
)
COUNTY OF _____)

I, _____, a notary public hereby certify that _____ personally came before me this day and acknowledged that he/she is the _____ President of THE TOWNES AT CRABTREE HOMEOWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, and that he/she, by authority duly given and as the act of said corporation, executed the foregoing instrument on behalf of the corporation.

WITNESS my hand and notarial stamp or seal, this _____ day of _____, _____.

_____
Notary Public

My commission expires: _____

[NOTARY SEAL]

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Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.

WAKE COUNTY
NORTH CAROLINA

Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina – Wake County

The foregoing certificate___ of _____
_____
_____
_____
_____

_____ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

Laura M. Riddick, Register of Deeds

By: _____
Assistant/Deputy Register of Deeds

This Customer Group
_____ # of Time Stamps Needed

This Document
_____ New Time Stamp
_____79_____ # of Pages

22.004–7/11/03