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DIANA WILLIAMSON KIRKLAND
REGISTER OF DEEDS

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PREPARED BY AND RETURN TO:

Gary H. Miller
18 Colonial Square
Sylva, North Carolina 28779

EXCISE TAX (None)

STATE OF NORTH CAROLINA
COUNTY OF ~~SWAIN~~
SWAIN

**DECLARATION OF EASEMENTS,
COVENANTS, CONDITIONS AND
RESTRICTIONS OF BRYSON GAP
PRESERVE**

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS OF BRYSON GAP PRESERVE (as same may be amended or supplemented from time to time, one or more times, this "Declaration") is made this 12th day of May, 2021, by William Garvin III, a married man executing this Declaration with respect to his separate property pursuant to the Free Trader Agreement recorded in the records of the Register of Deeds for Swain County, North Carolina in Deed Book 491 at page 235, whose mailing address is 1400 Village Square Blvd, Suite 3-334, Tallahassee, Florida 32312 (the "Declarant").

WITNESSETH:

- A. Declarant is the owner of the property (the "Parent Tract") described (i) in that certain deed between William Herbert Garvin, Jr. as Trustee of the William Herbert Garvin, Jr. Living Trust dated November 8, 2002, and Sarah Elizabeth Cochran Garvin as Trustee of the Sarah Elizabeth Cochran Garvin Living Trust dated November 8, 2002 to William H. Garvin, III and David Cochran Garvin recorded in the records of the Register of Deeds for Swain County, North Carolina in Deed Book 266 at page 784, and (ii) that certain deed from David Cochran Garvin, a single man, to William H. Garvin, III recorded in the records of the Register of Deeds for Swain County, North Carolina in Deed Book 409 at page 632; and
- B. Declarant is developing a portion of the Parent Tract into a Planned Community to be known as "BRYSON GAP PRESERVE" (the "Planned Community"); and
- C. The Planned Community currently consists of property (the "Property") depicted as Phase I and Lots 1 through 6 on a plat of survey by William R. Howell, PLS, entitled "Bryson Gap Preserve Phase I being a portion of the William H. Garvin Property, Deed Book 409, Page 632", dated April 20, 2021, Drawing Number 843-20-S, which plat of survey is recorded in the records of the Register of Deeds for Swain County, North Carolina in Plat Cabinet 4 at Slide 3755; and

- D. Prior to the sale or conveyance of the first (1st) Lot in the Planned Community, Declarant created a North Carolina non-profit corporation to function as a homeowners association to which all Owners of Lots shall be members, said homeowners association being a North Carolina non-profit corporation; and
- E. The homeowners association shall be responsible for maintaining, repairing, replacing and improving common areas within the Planned Community; and
- F. Common areas shall be parts of the Property and/or easements over and across portions of the Property that will conveyed to the homeowners association by the Declarant or parts of the Property over which the Declarant shall reserve and establish easements herein for the benefit of Owners or others; and
- G. Each Owner of a Lot must belong to said homeowners association and pay various types of assessments to the homeowners association, as described in this Declaration, to enable the homeowners association to maintain, repair, replace and improve the above described common areas; and
- H. Any common area within the Property owned by Declarant, other than common areas consisting of easements over Lots or parts thereof, shall be conveyed to the homeowners association without cost or charge to the homeowners association as described in this Declaration, and there also shall be no charge for the easements benefitting the Owners, directly or indirectly.

THEREFORE, the Declarant hereby declares that all of the Lots and Common Areas (hereinafter defined) located within the Planned Community shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and/or improved subject to the North Carolina Planned Community Act, NCGS 47F-1-101 et seq., and the following covenants, easements, conditions and restrictions, all of which are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Planned Community as a whole and of each of the Lots located within the Planned Community. All of these covenants, easements, conditions and restrictions shall run with the land and shall be binding upon the Declarant and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the Property or any part or parts thereof, including, without limitation, any Lot, and shall inure to the benefit of the Declarant and every one of the Declarant's successors in title to any of the Property, including, without limitation, each of the Owners and the homeowners association, as applicable.

ARTICLE I

DEFINITIONS

Capitalized terms used herein shall have the meanings ascribed to such terms in this Article I or elsewhere in this Declaration:

“Act” means the North Carolina Planned Community Act, NCGS 47F-1-101 et seq., as the same may be amended, supplemented, revised and/or restated from time to time, one or more times.

“Annual Organizational Board Meeting” means the annual organizational meeting of the Board taking place immediately after each Annual Meeting of the Members.

“Annual Meeting” means the annual meeting of the Members held in Swain County, North Carolina or such other location as a Majority in Interest shall select, within the last quarter of each calendar year, upon proper notice, on a date and at a time and place designated by the Board from time to time. The first Annual Meeting of the Members shall be held within one (1) year from the date of incorporation of the Association on a date and at a time and place designated by the Board from time to time.

“Articles” or “Articles of Incorporation” shall mean the articles of incorporation of the Association filed with the North Carolina Secretary of State on April 16, 2021 to incorporate and create “Bryson Gap Preserve Homeowners Association, Inc.” as a nonprofit corporation under the provisions of the North Carolina Nonprofit Corporation Act, as the same may be amended from time to time.

“Assessments” means and includes Regular Assessments, Special Assessments, Individual Assessments and Fine Assessments, if any.

“Association” shall mean and refer to “BRYSON GAP PRESERVE HOMEOWNERS ASSOCIATION, INC.”, a North Carolina nonprofit corporation, its successors and assigns.

“Board” or “Board of Directors” shall mean and refer to the Board of Directors of the Association. The Board shall be an “executive board” as described and defined in the Act.

“By-Laws” shall mean the By-Laws of the Association, as the same may be amended from time to time.

“Class A Members” shall have the meaning set forth in Section 4.5.1 below.

“Class B Members” shall have the meaning set forth in Section 4.5.2 below.

“Constituent Documents” collectively shall mean this Declaration, the By-Laws, the Articles, and the Rules and Regulations, if any, and any other documents used to create or govern the Planned Community or the Association.

“Common Areas” shall mean all the Real Property and components thereof, and all easements, including, if any, real estate, components and easements, shown on the Plat or otherwise reserved or designated herein or any amendment hereto, or on the Plat or any future plat or future revision of this Survey or any other survey, for use as reservoirs, common wells, pump houses, common water lines/pipes-retention ponds, storm drainage improvements, entrance signage, roads, access drives, the entrance gate to the Planned Community streets (including any private streets or roads prior to their dedication to and acceptance by public authorities for public maintenance as a public road or street), hiking trails, walking trails, greenway and all landscaping and other improvements thereon that are owned by the Association, or the Declarant during the Development Period or otherwise prior to the conveyance thereof to the Association, or over which real estate (i) the Owners have an easement, or (ii) the Association has an easement for the benefit of the Owners and/or the Association, including, without limitation, each of the parcels designated on any Plat of the Planned Community or future revision thereto or any future survey or amendment thereto as a “Common Area”. “Common Areas” include easements over private streets connecting Lots to each other and Lots to public roads or streets located outside of the Planned Community, even if the fee simple interest in such Real Property is owned by an Owner and not the Association or Declarant. “Common Area” also includes use of the roads in the Planned Community at a future date for

access between the public road and property now owned or hereafter acquired and developed by Declarant or an entity controlled by Declarant or by Declarant and one or more Persons.

“Common Expenses” shall mean all charges, costs and expenses incurred by the Association in connection with the administration or operation of the Planned Community, including, without limitation, the operation, acquisition, maintenance, repair, replacement, restoration or improvement (to the extent not covered by insurance) of the Common Areas; the costs of any additions and alterations to the Common Areas; all costs and expenses for labor, services, common utilities, materials, supplies, or equipment related to Common Areas; all liability for loss or damage arising out of or in connection with the Common Areas and/or their use; all premiums for hazard, liability and other insurance procured by the Association for or with respect to the Planned Community or Association; all costs incurred by the Association to acquire a Lot pursuant to a private sale, foreclosure sale or judicial sale; and all associated administrative, accounting, legal, and managerial expenses. “Common Expenses” shall also include amounts incurred in maintaining, repairing, upgrading and replacing capital improvements within the Common Areas of the Planned Community, including, but not limited to, hiking trails, walking trails, the entrance gate to the Planned Community, roads and parking surfaces. “Common Expenses” shall be construed broadly.

“Declarant” shall have the meaning set forth above.

“Default” shall mean any violation or breach of, or any failure to comply with this Declaration or

“Development Period” or “Declarant Control Period” shall mean the period commencing on the date on which this Declaration is recorded in the records of the Register of Deeds for Swain County, North Carolina and terminating on the earlier to occur of (i) the date that Declarant no longer owns a Lot within Phase I or Phase II or any other property in Phase II, (ii) the date that Declarant relinquishes in a writing delivered to the Board, Declarant’s right to appoint Directors, or (ii) the date that is twenty (20) years from the date this Declaration is recorded in the records of the Register of Deeds of Swain County, North Carolina.

“Director” shall mean a member of the Board.

“Home” shall mean and refer to a structure located upon a Lot that is intended to be used as a single-family residential dwelling, together with detached, accessory structures located on that Lot, such as a garage or storage unit.

“Fine Assessment” means the charge described in Section 5.5.2 of this Declaration.

“Individual Assessment” means the charge described in Section 5.4.

“Lot” is a part of the Property depicted upon the Survey as a Lot and upon which a Home has been or is intended to be constructed. The Declarant has initially created six (6) Lots in the Planned Community and shall have the right to create and establish additional Lots, whether or not contiguous to the Planned Community, during the Development Period that shall be subject to the terms of this Declaration. Notwithstanding the forgoing, the Association also shall have the right to add additional Real Property to the Planned Community and create and establish additional Lots from such Real Property that shall be subject to the terms of this Declaration.

“Member” shall mean and refer to all those Owners who are Members of the Association as provided in Article IV below.

“Nonprofit Corporation Act” shall mean the North Carolina Nonprofit Corporation Act, NCGS 55A-1-01 et seq.

“Owner” shall mean and refer to the record owner or owners, including Declarant, of fee simple title to a Lot.

“Person” shall mean a natural person, corporation, trustee, partnership, association, joint venture, government, governmental department, agency or authority or other legal or commercial entity.

“Plat” shall mean and refer to any plat or plats of survey of all or part of the Property, including a single Lot or multiple Lots, whether together or alone, with or without other Lots or lots, whether or not recorded by Declarant in the records of the Register of Deeds for Swain County, North Carolina, as the same may be amended or supplemented from time to time, one or more times, in accordance with the requirements of this Declaration.

“Phase I” shall mean that portion of the Planned Community consisting of Lot Numbers 1 through 6 and the Common Areas benefitting such Lots and located within the portion of the Planned Community designated as Phase I on a Plat recorded in the records of the Register of Deeds for Swain County, North Carolina in Plat Cabinet 4 at Slide 3755.

“Phase II” shall mean the area to be developed by Declarant as Phase II of the Planned Community, part of which is designated as “Bryson Gap Preserve Phase II Future Development” on the Survey recorded in the records of the Register of Deeds for Swain County, North Carolina in Plat Cabinet 4 at Slide 3755.

“Planned Community” shall have the meaning set forth above and all other real estate that may be made a part of the Planned Community and made subject to this Declaration by the Declarant during the Development Period or by the Association at any time following the termination of the Development Period.

“Real Property” shall mean any property or interest therein which is not personal property under North Carolina law.

“Regular Assessment” means the charge described in Article V of this Declaration.

“Resident” shall mean and refer to any person, not an Owner, living in an Owner’s Home, including, but not limited to, temporary guests and Tenants.

“Restrictions” shall mean all covenants, conditions, restrictions, easements, charges, liens and other obligations limiting the use to which a Lot may be put as set forth in this Declaration, including, without limitation, all notices, rules and regulations issued in accordance with this Declaration.

“Rules and Regulations” shall mean and include rules and regulations established from time to time by the Board of Directors as described in Section 4.3.

“Special Assessment” means the charge described in Section 5.3 .

“Special Declarant Rights” shall have the meaning set forth in the Act and mean rights hereby reserved for the benefit of Declarant, including, without limitation, any right (i) to complete improvements indicated on Plats and plans filed with this Declaration; (ii) to exercise any

Development Right; (iii) to maintain sales offices, management offices, signs advertising the Development and models; (iv) to use easements through the Common Area for the purpose of making improvements within the Planned Community as it presently exists or as it may exist from time to time if additional property is made a part of the Planned Community or upon any property presently or hereafter owned or acquired by Declarant or any future owner of the Special Declarant Rights, whether added to the Planned Community and subjected to this Declaration at a later date or made a part of another presently existing or hereafter established Planned Community or development owned by Declarant alone or with others ; (v) to make the Development part of a larger planned community or group of planned communities; (vi) to make the Development subject to a master association; or (vii) to appoint or remove any officer or member of the Board or member of the board of a master association during the Declarant Control Period.

“Tenant” means any person occupying any Lot pursuant to a written or oral lease agreement with the Owner thereof or with any other person or entity claiming by, through or under the Owner of such Lot.

“Working Capital Assessment” means the charge described in Section 5.3.1.

When applicable for the sense of this instrument, the singular should be read as including the plural and the male, female, and neuter pronouns and adjectives should be read as interchangeable. Unless otherwise expressly specified, all “Section” references in this Declaration are intended to be and shall be to “Sections” of this Declaration. Unless otherwise expressly specified, all “Article” references in this Declaration are intended to be and shall be to “Articles” of this Declaration.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

The Property, each portion thereof, and all Homes thereon shall be held, transferred, sold, conveyed, leased, mortgaged, encumbered and occupied subject to the terms, provisions, covenants and conditions of this Declaration. The Property shall be a planned community within the meaning of the Act and shall be governed by the Act and the Constituent Documents.

ARTICLE III

PROPERTY RIGHTS IN COMMON AREAS

3.1 Owner’s Easements of Enjoyment. Except as otherwise provided for herein, each Owner shall have a right and easement of enjoyment in and to all Common Areas, which right and easement shall be appurtenant to and shall pass with the title to the Lot of such Owner. Each Owner shall have the right to use and enjoy the Common Areas, if any, which right shall terminate when such Owner ceases to have the status of an Owner. Such rights and easements shall be subject, however, to the following:

3.1.1 The right of the Board to adopt and enforce, and from time to time amend, reasonable limitations upon the use, and Rules and Regulations pertaining to the use, of all Common Areas, including regulations applicable to Tenants and guests of Owners and,

3.1.2 The right of the Board to grant approvals, permits or licenses over or within the boundaries of Common Areas for the placement of underground utilities, roads and other

constructions or improvements reasonably necessary or useful for the proper maintenance or operation of the Property.

3.2 Extension of Use. Any Owner may extend his right to enjoy any and all of the Common Areas to persons or entities entitled to use that Owner's Lot.

3.3 Use of Common Areas by Declarant. In addition to the specific rights and easements reserved herein, during the Development Period, Declarant and affiliates and associates of the Declarant, shall have (i) the same rights of use and enjoyment of the Common Areas as Class A Members and (ii) the right to use Common Areas for promotional, sales and similar purposes until all of the Lots currently existing or hereafter established have been sold.

3.4 Setback. Homes and other permanent structures or improvements shall be set-back twenty (20) feet from the front and rear property line of each Lot. Such Homes and other permanent structures or improvements also shall be set-back twenty (20) feet from each side property line of each Lot. The Association, for the benefit of each Lot and all present and future Owners of each such Lot, shall have easements over the set-back areas in, under, and above the set-back areas for utilities and for other Common Area uses such as walking, jogging, hiking trails, running paths, greenways and other non-invasive recreational activities.

ARTICLE IV

HOMEOWNERS ASSOCIATION

4.1 Homeowners Association. "Bryson Gap Preserve Homeowners Association, Inc." is a North Carolina nonprofit corporation formed or to be formed prior to the sale of the first Lot in the Planned Community by Declarant. During the Development Period, Declarant shall cause "Bryson Gap Preserve Homeowners Association, Inc." to be responsible for maintaining, managing, regulating and controlling Common Areas and the Planned Community as a whole, all as more specifically set forth in this Declaration.

4.2 Board of Directors and Officers/Board Committees. The Board of Directors, and the officers (individually, an "Officer") elected or appointed by the Board, shall conduct the affairs of the Association. The Board of Directors may also appoint committees and/or employees or engage other employees and agents who shall be responsible for the day-to-day operations of the Association, including, without limitation, an architectural committee (the "Architectural Committee").

4.3 Rules and Regulations. The Board of Directors may, from time to time, adopt, amend and repeal Rules and Regulations with respect to all aspects of the Association's rights, activities and duties under this Declaration. The Rules and Regulations may, without limitation, impose reasonable and justifiable rules to regulate the use of the Lots and Common Areas within the Planned Community, including Rules and Regulations applicable to the interpretation or administration of this Declaration; provided, however, that the Rules and Regulations shall not be inconsistent with this Declaration, the Articles, the By-Laws, or the Act. A copy of the Rules and Regulations, if any, as they may from time to time be adopted, amended or repealed, shall be maintained in the office of the Association and shall be available to each Owner upon request.

4.4 Membership in Association. Every Owner of a Lot shall be a Member of the Association. Each such Owner shall abide by the Rules and Regulations, if any, pay all Assessments owing by them when due, and comply with decisions of the Board applicable to them. Conveyance of fee simple title to a Lot shall automatically transfer membership in the Association to the transferee or grantee of such fee simple title without necessity of further acts or writings. Membership shall be appurtenant to and may not be separated from the ownership of any Lot.

4.5 Classes of Membership. The Association shall have two (2) classes of Membership:

4.5.1 Class A Members. Every person, group of persons, entity or entities who or which is a record Owner of a full or fractional fee interest in any Lot shall automatically be a Class A Member of the Association provided that (i) during the Development Period there shall be no Class A Members and during such period the Declarant, who shall be the Class B Member during such period, shall be the sole Class B Member; and (ii) any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a Member. A Class A Membership shall be appurtenant to and may not be separated from ownership of any Lot. Class A Members shall be entitled to one (1) vote for each Lot in which they individually or collectively own a one hundred percent (100%) undivided, fee simple interest. In the event that more than one Person or group of Persons, or any combination of any of them, is the record Owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Lot shall be cast by the Owners of such Lot in accordance with their fractional ownership interest in the Lot in question. In the event of a conflict on the manner of voting between this Declaration and the By-laws, the manner of voting by Owners in disagreement shall be as set forth in the By-laws of the Association. During the Development Period, Developer shall be the only Member with voting rights.

4.5.2 Class B Members and Special Declarant Rights. During the Development Period there shall be only one (1) voting Member, who shall be a Class B Member. The Class B Member during the Development Period shall be the Declarant. The Class B Membership shall cease and be converted to a Class A Membership upon the expiration of the Development Period. During the Development Period, Declarant shall have the right to exercise the Special Declarant Rights or any of them one or more times.

4.6 Voting. Each Member shall have one vote with respect to each Lot owned by such Member alone. If a Lot is owned by more than one (1) Member, then such Members shall collectively be entitled to only one vote for the Lot that they own together or collectively as Class A Members, but a Class A Member shall not be entitled to exercise any vote until the expiration of the Development Period. If there are more than one Owner who own a Lot together, but they cannot agree upon how to cast the single vote that they are entitled to exercise with respect to the Lot that they own together, their vote shall be determined as set forth in the By-laws of the Association.

4.7 Maintenance Obligations of the Association. The Association, at its expense, shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the Common Areas and all improvements located thereon for the common benefit of the Owners and the Planned Community. This shall include, without limitation, the maintenance, repair, replacement and painting of the following landscaping and improvements (to the extent applicable or to the extent that such improvements or landscaping are located upon or constitute Common Areas): (a) all private roadways, driveways, pavement, sidewalks, walkways, hiking trails, greenspace trails, walking trails and uncovered parking spaces; (b) all lawns, trees, grass and landscape areas, shrubs and fences located within a Common Area, except as otherwise set forth hereinbelow; and (c) all conduits, ducts, utility pipes, plumbing, wiring and other facilities which are part of or located in, or which serve or furnish utility services to, the Common Areas.

The Association shall make the determination as to when maintenance, repair, replacement and/or care shall or should be done, and its determination shall be binding. During the Development Period, Declarant, and following the Development Period, the Association, shall have the right to employ a manager to oversee and implement the Association's maintenance obligations, and any management fees incurred as a result thereof, shall be a Common Expense

which shall be paid by the Association. The Association shall also perform the other duties prescribed by this instrument or the Association's Rules and Regulations.

4.8 Maintenance Obligations of the Owners of Lots. The responsibilities of each Owner shall include:

4.8.1 The obligation to clean, maintain, keep in good order, repair and replace, at his expense, all portions of his or her Lot and Home, but excluding any Common Area within a Lot, other than landscaping and driveways within such Common Area which shall be the Lot Owner's responsibility, for which the Association or Declarant shall be responsible as set forth above. Any repair, replacement or maintenance work undertaken by an Owner must comply with all applicable Rules and Regulations of the Association.

4.8.2 The obligation to perform his responsibilities in a manner that does not unreasonably disturb other Persons residing within the Planned Community.

4.8.3 The obligation to not impair the use of any easement benefitting other Owners or the Association without first obtaining the written consents of the Association and the Owner or Owners for whose benefit such easement exists.

4.8.4 The obligation to repair and/or replace, at his or her expense, all portions of the Common Areas which may be damaged or destroyed by reason of his own intentional or negligent act or omission, or by the intentional or negligent act or omission of any of their contractors, subcontractors, guests, invitees, Tenants, licensees, or family members, including, but not limited to, any necessary repairs which result from damage caused by pets or vehicles owned by an Owner or any contractor, subcontractor, guest, , invitee, Tenant, licensee, or family member of such Owner. To the extent that any Common Area is damaged as an insurable loss and the proceeds from the Association's insurance policy are utilized to pay for the loss, the Owner shall be responsible for the payment of the deductible as an Individual Assessment in accordance with Section 5.4 and Section 7.7 below.

4.9 Construction Defects. The obligations of the Declarant, Association and Owners to repair, maintain and replace the portions of the Planned Community for which they are respectively responsible shall not be limited, discharged or unreasonably postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in materials or workmanship in the construction of the Planned Community or any Home located therein. The undertaking of repair, maintenance or replacement by the Association or an Owner or Owners shall not constitute a waiver of any rights against any warrantor, but such rights shall be specifically reserved. Likewise, this Section 4.9 is not intended to work for the benefit of the Person responsible for the construction defect. Also, performance by the Association may be delayed if the Association does not have the means or the funds to repair the defect or if by repairing the defect, the Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

4.10 Effect of Insurance or Construction Guarantees. Notwithstanding the fact that the Association and/or Owner of any Lot may be entitled to the benefit of any guarantee of material and/or workmanship furnished by any construction trade responsible for any construction defects, or to benefits under any policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of a construction guarantee or insurance coverage shall not excuse any unreasonable delay by the Association or any Lot Owner in performing its or his obligation hereunder. Likewise, this Section 4.10 is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by the Association may be delayed if the Association does not have the means or the funds to repair the defect or if,

by repairing the defect, the Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

ARTICLE V

COVENANTS FOR ASSESSMENTS

5.1 Regular Assessments. Regular Assessments for the payment of Common Expenses shall be made in the manner provided herein, and in the manner provided in the By-Laws and the Act. Regular Assessments shall be established for the benefit and use of the Association and shall be used to pay for or otherwise satisfy Common Expenses. Upon the transfer of title to a Lot to an Owner, the Owner shall pay \$600 to the Association as the Regular Assessment owing by said Owner for the calendar year, or fiscal year of the Association if different than a calendar year, during which Owner acquires title to such Lot. Said initial payment of Regular Assessments shall not be prorated if the Owner for less than a full calendar or fiscal year, as applicable, owns a Lot

5.2 Declarant's Limitation for Payment of Assessments.

As long as Declarant owns any Lot or Lots, Declarant only shall be obligated to pay Assessments of any type attributable to a single Lot, regardless of the number of Lots owned by Declarant. Declarant shall have no obligation to pay Assessments of any type, for more than one (1) Lot during or after the Declarant Control Period regardless of the number of Lots Declarant owns. On the other hand, Declarant may, but shall be under no obligation to, subsidize the management and operation of the Association during the Declarant Control Period

5.3 Special Assessments.

5.3.1 Special Assessments for Capital Improvements or Working Capital. In addition to the annual Regular Assessments authorized above, the Association may levy, for any Assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement or to raise such capital for working capital, but any such Assessment must have the approval by vote of at least sixty-seven (67%) percent of the vote of the Members of the Association (i) who vote in person or by proxy at a meeting duly called for that purpose, or (ii) who vote individually or by proxy by written ballot delivered to the Members by the Association for that purpose. The Association incorporates by reference N.C.G.S. § 47F-3-115 regarding any Special Assessments for capital improvements or working capital.

5.3.2 Special Assessments for Deficiencies. During the course of any Assessment year for the Association, the Board may Levy Special Assessments in the appropriate category of Assessments if revenue attributable to Regular Assessments collected shall be less than the actual costs incurred for Common Expenses by the Association, or if the Association shall incur any costs or expenses not foreseen in the budget approved or deemed approved for that Assessment year, provided the Members or their proxies approve such Special Assessment. Payment of these Special Assessments shall be recommended by the Board in a supplemental budget and approved by the Members (i) at a special meeting of Members noticed for that purpose, or (ii) by written ballot delivered to Members for that purpose, in either case in the manner required for a Regular Assessment.

5.4 Individual Assessment. In the event that the need for maintenance, repair or replacement of any improvement on Property for which the Association has the obligation of maintenance, repair and/or replacement results from the willful or negligent act of an Owner or any of his contractors, subcontractors, family, pets, Tenants, guests, or invitees, the cost of such maintenance, repairs or replacements shall be paid by such Owner. The Board shall have the maintenance, repair or replacement performed and the cost thereof shall be billed by the Board to such Owner and paid by such Owner within thirty (30) days of demand therefor, unless an earlier reasonable date is otherwise set forth therein or in the bill or invoice for such cost.

5.5 Date of Commencement of Assessments; Due Dates; Determination of Regular Assessments; Fine Assessments.

5.5.1 The annual Regular Assessment or pro-rated annual Regular Assessment, as applicable, provided for herein shall commence as to each Owner of a Lot, except Declarant, on the first day following the initial conveyance of the Lot to the Owner by the Declarant and shall be adjusted according to the number of days remaining in the annual Regular Assessment year. The Declarant, his successors and assigns, only shall be required to pay the Regular Assessment for a single Lot regardless of the number of Lots actually owned by Declarant until such time as Declarant transfers all of the Lots to third-party Owners. The Board of Directors and Owners shall fix the amount of each annual Regular Assessment to be paid by each Class A Member in accordance with the requirements of the By-Laws, the Act, this Declaration and any other applicable North Carolina law. Written notice of each annual Regular Assessment shall be sent to every Class A Member subject thereto.

5.5.2 The Board of Directors, or an adjudicatory panel established by the Board of Directors, may levy a reasonable Fine Assessment, as a fine or penalty for violation of this Declaration, all in accordance with the Act. A lien may be filed for the late payment of a Regular Assessment, Special Assessment, Individual Assessment or Fine Assessment and such Regular Assessment, Special Assessment and Fine Assessment may be enforced by foreclosure.

5.5.3 Both Regular and Special Assessments attributable to a Lot shall be determined by the Association based upon the proportion that each Lot bears to the aggregate number of Lots located on the Property or any property added to the Planned Community by Declarant or any successor to the Special Declarant Rights, except those owned by Declarant which shall not be assessed or used to calculate any assessment as specified in Section 5.5.1 above. The Association's governing body may, at its discretion, waive the Regular Assessment for any year or part of a year for any Lot not occupied as a residence.

5.6 Billing. The Association shall inform each Owner of the amount of the total Regular Assessment and Special Assessment, if any, due from the Owner for each Lot owned by that Owner and the date each such Regular Assessment and Special Assessment, if any, is due. Regular Assessments and Special Assessments, if any, shall be paid in a lump sum annually or as otherwise required by the Association. The initial Owner of a Lot, except Declarant, shall be obligated to begin paying the Regular Assessment and Special Assessments, if any, or a prorated portion of each thereof, attributable to such Lot as of the date the Lot is conveyed by Declarant to such Owner, provided Declarant shall pay the Assessments attributable to one (1) Lot with the first (1st) annual budget for the Planned Community, but Declarant shall only be obligated for the Assessments due for one (1) Lot even if Declarant owns multiple Lots when Assessments are calculated or are due. If the Planned Community is expanded and additional Lots are brought into the Planned Community during a given Assessment year, each such additional Lot shall begin paying the Regular Assessment and Special Assessments, if any, for such additional Lot on the date the Lot is conveyed by Declarant to such Owner.

5.7 Common Surplus. If the Regular Assessment collected in any given year is in excess of the actual Common Expenses for that year, the Board may, in its sole discretion, either (a) return each Owner's share of the common surplus (the "Common Surplus") to the Owners; (b) credit each Owner's share of the Common Surplus to each Owner's payment of the Regular Assessment or Special Assessment due for the following Assessment year; or (c) apply the Common Surplus to any reserve established by the Board.

5.8 Assessment Certificate. The Association shall, upon request, at any reasonable time, furnish to any Owner liable for Assessments, or their lender or any prospective purchaser of a Lot, a written certificate signed by an officer (an "Officer") or other authorized agent of the Association, setting forth the status of said Assessments; i.e., "current" and the amount paid for the last Assessment year, and if not current, "delinquent" and the amount due. Such certificate shall be conclusive evidence of the payment of any Assessment therein stated to have been paid or the delinquency of any such Assessment not paid by the date such Assessment is due. A reasonable charge to cover labor and materials may be assessed in advance of the delivery of such certificate by the Association for each requested certificate.

5.9 Books and Records of the Association. The Association shall keep full and correct books of account. The Association shall make available to each Owner and the holders of each first mortgage or deed of trust on a Lot, current copies of the books, records and financial statements of the Association upon reasonable request during normal business hours. All books and records shall be kept in accordance with recognized good accounting procedures.

5.10 Non-Payment of Assessment. Any Assessment levied upon a Lot or against an Owner pursuant to this Declaration or any other Constituent Document which is not paid on or before the date such Assessment is due shall be delinquent and shall, together with such interest and other costs as are set out elsewhere in this Declaration, thereupon become a continuing lien upon such Lot which shall bind the Lot in the hands of the then Owner and the Owner's successors and assigns. If an Assessment is not paid within thirty (30) days after the due date, the unpaid Assessment shall bear interest at the reasonable rate of ten percent (10%) per annum or at such other reasonable rate as may be set by the Association in its minutes, not to exceed the maximum interest rate allowed by law, and the Association may bring an action at law against an Owner personally obligated to pay the same and/or foreclose the lien against the Lot owned by such Owner, in either of which events interest, costs and reasonable attorneys' fees shall be added to the amount of each Assessment provided the requirements of the Act must be followed in order for the Association to assess and/or collect reasonable attorneys' fees and court costs to which the Association may otherwise be entitled. No Owner may waive or otherwise escape liability for the Assessments by non-use or waiver of use of the Common Areas or by abandonment of his Lot.

5.11 Priority of Association Lien. Any lien provided for in this Article V shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments, liens of bona fide first mortgages or deeds of trust, and other liens, judgements or claims of lien which have been filed of record before a claim of such lien hereunder has been docketed in the office of the Clerk of Superior Court for Swain County, and may be foreclosed in the manner set forth in the Act. The Association shall be entitled to recover its reasonable attorneys' fees and court costs and collection costs, as part of the lien provided the Association follows the requirements of the Act that may be prerequisites to the collection of such attorneys' fees, court costs and collection costs. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale to the extent allowed by applicable law.

5.12 Disputes as to Common Expenses; Adjustments. Any Owner who believes that the portion of Common Expenses charged to his Lot has been improperly charged against his or her Lot may bring action in an appropriate court of law.

5.13 Purchaser at Foreclosure Sale Subject to Declaration, By-laws, Rules and Regulations of the Association. Any purchaser of a Lot at a foreclosure sale shall automatically become a Member of the Association and shall be subject to all the provisions of this Declaration, the By-Laws and the Rules and Regulations.

5.14 Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. When the holder of a first mortgage or first deed of trust of record or other purchaser of a Lot acquires title to the Lot as a result of the foreclosure of a first mortgage or first deed of trust on such Lot or by a deed of such Lot in lieu of foreclosure of a first mortgage or first deed of trust upon such Lot, such acquirer of title shall not be personally liable for the share of the Assessments assessed by the Association against such Lot to pay for Common Expenses chargeable to such Lot which became due prior to the acquisition of title to the Lot by such acquirer, other than Assessments for which a claim of lien has been docketed with the Clerk of Superior Court for Swain County prior to the recordation of the lien for unpaid Assessments being foreclosed. Such unpaid share of Assessments to pay for Common Expenses shall be deemed to be Common Expenses collectible from all of the Lots, including that of such acquirer. This provision shall not relieve the party acquiring title or any subsequent Owner of the subject Lot from paying future Assessments.

5.15 Liability for Assessments Upon Voluntary Conveyance. In a voluntary conveyance of a Lot, any grantee or his or her first mortgagee or beneficiary of a first priority deed of trust shall inform the Board of Directors in writing of such contemplated conveyance and such grantee or mortgagee or beneficiary shall be entitled to a statement from the Board of Directors setting forth the amount of all unpaid Assessments (including current Assessments) and paid Assessments for the annual Assessment years then in effect. Neither the grantee nor any such mortgagee or beneficiary shall be personally obligated for any delinquent Assessments, but such delinquent Assessments, along with interest, late charges, costs and reasonable attorneys' fees shall be a charge against the Lot in accordance with Section 5.10 and Section 5.11 hereof.

5.16 Late Charge. The Association may impose a charge against any Owner who fails to pay any amount assessed by the Association against a Lot owned by such Owner within thirty (30) days after such Assessment is due and payable and who fails to exercise his rights under this Declaration or under the laws of the State of North Carolina to successfully contest such Assessment. The amount of the late charge shall be the greater of (a) Twenty and No/100 Dollars (\$20.00), or (b) twenty percent (20%) of the unpaid Assessment, or such other amount as may be set by the Board from time to time at a rate not exceeding the maximum rate allowed by the Act, provided in no event shall a late charge exceed that allowed by the Act or other applicable North Carolina law.

5.17 Miscellaneous.

5.17.1 Each Owner has the sole responsibility of keeping the Association informed of such Owner's current mailing address if different from the Lot or another Lot owned by such Owner, provided if an Owner fails to provide such an address to the Association, the Association may treat any Lot owned by such Owner as a sufficient mailing address for such Owner for any notice requirement under this Declaration.

5.17.2 A lien under this Article V arises automatically, but such lien is not perfected and has no effect against third-parties unless and until a Claim of Lien for such lien is duly filed in the records of the Clerk of Superior Court for Swain County.

5.17.3 Provided that the requirements of the Act are followed concerning the collection of attorneys' fees, any lien securing the payment of an unpaid Assessment also shall secure, to the extent allowed by applicable all collection costs, including the cost of demand letters, preparation

of documents, reasonable attorneys' fees, court costs, filing fees, collection fees, and any other expenses incurred by the Association in enforcing or collecting such Assessment.

5.17.4 No Owner may exempt himself from liability for his contribution toward the Common Expenses or the payment of Assessments by waiver of the use or enjoyment of any of the Common Areas or by the abandonment of his Lot.

5.17.6 This Section 5.17 applies to every type of Assessment under this Declaration.

ARTICLE VI

EASEMENTS AND ENCUMBRANCES

6.1 Easement for Encroachments. All Homes, electrical lines, water lines, gas lines and all other improvements originally constructed by or on behalf of Declarant or its assigns shall have an easement to encroach upon any setback, Lot or Common Area as a result of the location of such a Home, electrical line, water line, gas line or other improvement across any boundary line between and along Lots and/or any Common Areas, or as a result of the movement, alteration or addition from time to time of a Home, electrical line, water line, gas line or other improvement, provided that such movement, alteration or addition has otherwise complied with the requirements of this Declaration.

6.2 Utility Easements Through Common Areas. Easements are hereby reserved and granted in favor and for the benefit of each Lot and the current and future Owners of each Lot to and throughout the Common Areas and, if necessary, the setback areas of any other Lots, as may be necessary for the installation, maintenance, repair and use of underground water, gas, sewer, power, telephone, communication and other utilities and services now or hereafter existing, including easements for the purpose of maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility components, power or communication lines or equipment, or other similar components. The foregoing notwithstanding, no Owner (other than Declarant) may exercise the easement rights reserved in this Section 6.2 without the prior written approval of the Board as described in Section 6.7 below and the Declarant as long as Declarant owns a Lot in the Planned Community.

6.3 Utility Easements Through Lots. Easements are hereby reserved and granted in favor of and for the benefit of Declarant, each Lot and each current and future Owner of each such Lot, as well as in favor of and for the benefit of the Association, through each Lot (provided that such easements do not materially and unreasonably interfere with the use of any Home or any other improvement or property now or at any time hereafter located upon any such Lot) for the purpose of installing, laying, maintaining, repairing and/or replacing any pipes, wires, ducts, conduits, equipment, fixtures and/or utility, power or communication lines or equipment, or other components, throughout each Lot (provided that such easements do not unreasonably interfere with any Home or improvement or property now or at any time hereafter located upon any such Lot) as aforesaid. Without limiting any other provision in this Article 6 to the contrary, it is understood that the easement rights reserved herein may be utilized for the benefit of property within or outside of the Planned Community. Each Owner of a Lot, and each mortgagee under a mortgage upon such Lot and each beneficiary under a deed of trust upon such Lot, by acceptance of a deed conveying an ownership interest in such Lot and each mortgagee or beneficiary under a mortgage or deed of trust encumbering any such ownership interest, as the case may be, hereby irrevocably appoints each of the Declarant and the Association, as the case may be, as his attorney-in-fact, coupled with an interest, with the power and authority, at the option of the attorney, to execute, acknowledge and record for and in the name of such Owner and/or mortgagee or deed of trust beneficiary of any such Owner, and against any Lot owned by any Owner and/or encumbered by any mortgagee or deed of trust beneficiary, such easements or other instruments as may be

necessary or desirable to effect the purpose of this Section 6.3. The aforesaid easements may be assigned and/or granted by the Declarant and/or the Association to or for the benefit of any third-party public or private utility or service company.

6.4 Declarant's Right of Entry on and Use of Common Areas. The Declarant reserves unto himself and any successor holder of Special Declarant Rights, the right to go on, over and under the ground to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers/septic systems and line, water lines and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer/septic, water, cable television or other public conveniences or utilities in any Common Areas, including Common Areas consisting of easements located on Lots. These reservations and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and maintain standards of health, safety and appearance. The Declarant further reserves the right to locate wells, pumping stations and tanks within any Common Areas, but excluding Common Areas consisting of easements located on Lots. In no event do these reservations obligate or require Declarant to provide or maintain any such utility or service to any Lot under any circumstance whatsoever, unless Declarant otherwise agrees to such obligation in writing.

6.5 General Easements. An easement is hereby reserved and granted in favor of the Declarant and the Association in, on, over and through the Common Areas, the Lots and each Home for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, policing, replacing and otherwise dealing with the Common Areas, Lots and Homes, including all improvements thereon, as required or permitted by the Constituent Documents, the Act or other applicable law. An easement is hereby reserved in favor of Declarant over the Common Areas for the purpose of advertising or promoting sales of Lots or Homes in the Planned Community.

6.6 Access Easement. Appurtenant to each Lot is an easement over those Common Areas necessary for pedestrian and/or vehicular ingress and egress between each Lot and other Lots or one or more public or private thoroughfares, including, without limitation, any walkway, driveway, private street, private road, highway, private bridge or private alley located within a Common Area. The easement shall be over such walkways, driveways, private streets, private roads, private alleys or other ways located within the Planned Community and designated by the Declarant or the Association for access purposes. Each such easement shall otherwise be subject to the terms of this Declaration and the other Constituent Documents.

6.7 Use of Easement. Any use of the rights and easements granted and reserved in this Article VI shall be reasonable. If any damage, destruction, or disturbance occurs to a Lot or improvement thereon or any Common Area as a result of the use of any easement or right, the Lot or Common Area shall be restored by, or at the direction of, the Association promptly in a reasonable manner at the expense of the Person or Persons undertaking the activities that resulted in said damage, destruction or disturbance. Before beginning work, the Association may require all or any part of the expected expense of such work to be prepaid by the Person or Persons liable for the expense. Additionally, should any Owner, other than Declarant, elect to exercise its easement rights hereunder, other than the right to use the easement of access described in Section 6.5, he shall be required to obtain the Board's prior written approval (not to be unreasonably withheld), after providing the Board with detailed plans of its proposed work, as well as evidence of appropriate insurance and such other reasonable information or assurances as the Board may require. No easement may be granted across, through, over, or under any Lot or Common Area which materially restricts ingress and egress to the Lot or Common Area, unless reasonable alternate ingress and egress approved by the Board is provided or unless the restriction is only temporary. All easements reserved hereunder, other than the aforesaid temporary easements, shall be perpetual and non-exclusive. It shall be the responsibility of each Owner to maintain Common Areas on their Lots other than Roadways or other items installed by Declarant. Accordingly, each Owner shall

be responsible for cutting grass and maintaining shrubbery and other landscaping located within a Common Area located on their Lot.

6.8 Reservation of Access Easement by Declarant. Declarant hereby reserves an easement for itself, its grantees, successor and assigns and all holders of the Special Declarant Rights, to enter the Planned Community for access, including ingress and egress for both vehicles and pedestrians, to and from any public or private street, road, land, walkway or right-of-way within or outside of the Planned Community. The easement shall be over the streets, sidewalks, bridges and other access ways within Common Areas within the Planned Community. Declarant further reserves the right to connect, at Declarant's expense, to any street, roadway, walkway or other means of access that are located on the Common Areas of the Planned Community. This reservation of access easements and the right of connection should be construed liberally in favor of the Declarant in order to facilitate the development of all or any portion of any other development currently or hereafter undertaken by Declarant, whether or not contiguous to the Planned Community.

6.9 Reservation of Construction Easement by Declarant. The Declarant reserves the non-exclusive right and easement to temporarily go into the Planned Community in order to complete the development of the Planned Community and the construction of Homes, roads and other improvements to be located therein, and to develop other neighboring land located within or outside of the Planned Community. This easement should be construed broadly in favor of the Declarant, including giving Declarant the right to store temporarily construction materials, equipment, dirt, gravel or stones. After the construction is finished, Declarant must, at Declarant's cost, repair any damage done to the Planned Community, including, without limitation, to any landscaping. As soon as reasonably possible after Declarant has completed construction on the land outside of the Planned Community, Declarant must remove all debris, equipment, materials and dirt from the Planned Community.

6.10 Roadway Easement. Declarant hereby reserves and grants for the benefit of Declarant and all Owners, the non-exclusive right of ingress and egress on, over and across all public and private roadways (the "Roadways") located within or to be located within the Planned Community, including, without limitation, private roadways that extend between one or more publicly dedicated streets. Roadways, other than those, if any, that have been accepted by applicable governmental authorities for maintenance, constitute Common Areas and shall be maintained, insured, repaired, improved and replaced by the Association in accordance with this Declaration. The costs of maintaining, insuring, repairing, improving and replacing the Roadways shall be Common Expenses. Declarant hereby reserves the right (but not the obligation), in his sole discretion, to annex additional Roadways physically located outside of the Planned Community into the Planned Community. Notwithstanding anything herein contained to the contrary, no part of a Roadway shall be dedicated or transferred to a unit of local government without acceptance by the unit of local government involved.

6.11 Declarant's Easements: General. The easements and grants reserved and granted in this Declaration or otherwise reserved for the benefit of Declarant or current or future Owners of Lots also benefit and bind any heirs, successors and assigns of Declarant and/or such Owners and their respective guests, invitees or lessees, including, without limitation, assignees of Declarant or any such Owner.

6.12 Easements to Run with Land. All easements and rights described in this Article VI are easements appurtenant to the Lots, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Declarant, his successors and assigns, and each Owner, purchaser, mortgagee, beneficiary, trustee, and other Person now or hereafter having an interest in the Planned Community, or any part or portion of it regardless of whether or not mentioned or referenced in a deed or other instrument transferring the Property.

6.13 Reference to Easements in Deeds. Reference in the respective deeds of conveyance or any mortgage or deed of trust or other obligation, to the easements and rights described in this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees, trustees and beneficiaries in said instruments as fully and completely as if those such easements and rights were recited fully, completely and set forth in their entirety in such instruments. Failure to make such reference, however, shall not prevent this Declaration and all easements and rights granted herein from running with the land and applying to all Lots and Common Areas.

ARTICLE VII

INSURANCE

7.1 General Insurance. If available at a reasonable cost, the Association, in the discretion of the Board, may carry a master policy of fire and extended coverage, vandalism, malicious mischief and/or liability insurance, and if required by law, workmen's compensation insurance, with respect to the Planned Community and the Association's administration thereof in accordance with the following provisions:

7.1.1 If the Association owns any improvements situated within the Planned Community, the Board, in its discretion, may purchase for the Association a master policy for the benefit of the Association, the Owners and their mortgagees and deed of trust beneficiaries as their interests may appear, subject to the provisions of this Declaration and the By-Laws. The "master policy" may be made up of several different policies purchased from different agencies and issued by different companies. All such policies, if any, shall cover Common Areas against fire and other perils covered by a standard extended coverage endorsement, in an amount to be determined by the Board, but preferably for an amount not less than one hundred percent (100%) of the replacement value of improvements of the Association. Any such master policy shall be in form and substance, and have such coverages, premiums and deductibles as the Board shall determine. Such policy shall not provide coverage for any items of property not owned by the Association.

7.1.2 Such insurance by the Association shall not prevent an Owner of a Lot from obtaining insurance on his own property, but no Owner may at any time purchase individual policies of insurance covering any item which the Association insures. If any Owner does purchase such a policy, he or she shall be liable to the Association for any damages, expenses or losses which the Association suffers or incurs as a result thereof, and the Association shall have the same lien rights provided by Article V hereof for Common Expense payments with respect to any such damages, expenses or losses not paid to it by such Owner.

7.1.3 The Association shall also maintain liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Areas. The Association shall try to have its liability insurance contain cross-liability endorsements or appropriate provisions to cover liability of the Owners, individually and as a group (arising out of their ownership interest in the Common Areas), to another Owner.

7.2 Fidelity Insurance. The Association may obtain fidelity coverage against dishonest acts on the part of Officers and employees, Members of the Association, members of the Board, and trustees, employees or volunteers responsible for the handling of funds collected and held for the benefit of the Owners. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than the insured's total Regular Assessment, plus all accumulated reserves and all other funds held by the Association either in its own name or for the benefit of the Owners.

7.3 Directors' and Officers' Errors and Omissions Insurance. The Association may purchase insurance to protect itself and to indemnify any Director or Officer, past or present, against expenses actually and reasonably incurred by him/her in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such Director or Officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for gross negligence or intentional misconduct in the performance of duty to the Association; or to obtain such fuller protection and indemnification for Directors and Officers as the law of North Carolina permits. The policy or policies shall be in an amount to be reasonably determined by the Association.

7.4 Premiums. All premiums upon insurance purchased by the Association shall be Common Expenses. Notwithstanding the foregoing, the Owners may be responsible for certain deductibles to the insurance policies purchased by the Association as outlined in Section 7.1 and Section 7.7 herein.

7.5 Proceeds. Proceeds of all insurance policies owned by the Association shall be received by the Association for the use of the Owners and their mortgagees and deed of trust beneficiaries as their interest may appear; provided, however, the proceeds of any insurance received by the Association because of property damage shall be applied to the repair and reconstruction of the damaged property, except as may otherwise be permitted by this Declaration.

7.6 Power of Attorney. Each Owner shall be deemed to appoint the Association as his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of any master policy or any other insurance policy obtained by the Association. Without limitation on the generality of the foregoing, the Association as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefor, to collect proceeds and to distribute the same to the Association, the Owners and their respective mortgagees and deed of trust beneficiaries as their interest may appear, to execute releases of liability and to execute all documents and to do all things on behalf of such Owners and the Planned Community as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Association in regard to such matters.

7.7 Responsibility of Lot Owner. The Association shall not be responsible for procurement or maintenance of any insurance covering any Lot or Home, or the contents of any Lot or Home nor the liability of any Owner for injuries not caused by or connected with the Association's operation, maintenance or use of the Common Areas or other property located in the Planned Community. Should an Owner desire to obtain insurance covering such matters, the Owner may, at his or her own expense, but without an obligation to do so, obtain general liability insurance for personal injuries or damage arising out of the use and occupancy of or occurring within his Lot or Home. In addition, should an Owner desire insurance to cover casualties that might cause damage to their Home by fire, wind or other casualty, such Owner may, at his or her own expense, but without an obligation to do so, obtain fire and extended coverage insurance on his Home, and for the contents of his Home. Each Owner agrees that if any Owners or Owners damage a building or other improvements now or at any time hereafter constituting a part of the Common Areas of the Planned Community which is covered under the Association's insurance policy, the Owner or Owners causing such damage shall be responsible for paying the lesser of: (a) the insurance deductible due under the Association's insurance policy; or (b) the cost to repair and/or replace any damage to the building or other improvements, which amount shall be due within ten (10) days after the delivery of written notice of such deductible due or replacement/repair costs to the responsible Owner or Owners or twenty (20) days after mailing of such notice by certified mail, whichever occurs first. In the event an Owner refuses or fails to pay the insurance deductible or replacement/repair costs in the time period provided in the preceding sentence, the amount thereof may be advanced by the Association and the amount so advanced by the Association shall be

assessed to such Owner as an Individual Assessment, which shall be due and payable following seven (7) days written notice.

7.8 Release. All policies purchased under this Article VII, if any, by either the Association or an individual Owner shall provide for the release by the issuer thereof, of any and all rights of subrogation or assignment and all causes and rights of recovery against any Owner, or any member of their family, employee of theirs, or any of their tenants, servants, agents or guests, or the Association, any employee of the Association, the Board, or any occupant of a Home, if any, in the Planned Community, for recovery against any one of them for any loss occurring to the insured property resulting from any of the perils insured against under the insurance policy.

7.9 Approximate Coverage. If any of the required insurance coverage under this Article VII becomes or is impossible to obtain or can be obtained only at, in the opinion of the Board, an unreasonable cost, the Association shall obtain coverage which most closely approximates the required coverage, if such substitute insurance is available.

7.10 Additional Policy Requirements. All such insurance coverage obtained by the Association shall be written in the name of the Association, for the use and benefit of the Association, and such insurance shall be governed by the provisions hereinafter set forth:

7.10.1 Exclusive authority to adjust losses under policies in force on the Planned Community obtained by the Association shall be vested in the Association provided, however, that no 5mortgagee or deed of trust beneficiary having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

7.10.2 In no event shall the insurance coverage obtained by the Association hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees, and the insurance carried by the Association shall be primary.

ARTICLE VIII

HARMONY, ENVIRONMENTAL CONTROLS

Section 8.1 Architectural Committee. Except for original construction performed by or on behalf of Declarant or as otherwise in these covenants provided, no building, fence, electric pet fence, sidewalk, drive, mailbox, or other structure, or improvement or anything attached thereto visible from the outside of the structure or improvement (including, without limitation, storm doors, windows, drapes or window coverings) shall be erected, placed, altered, or maintained within the Planned Community nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the proposed building plans, specifications, exterior color and finish, plot plans (showing the proposed location of such building or structure, drives and parking areas), general contractor and all subcontractors, and construction schedule shall have been submitted to and approved in writing by the Architectural Committee or the Board of Directors if the Board has not established an Architectural Committee. Refusal of approval of plans, location or specification by said Architectural Committee or Board of Directors, as applicable, may be based upon any reasonable ground, including, without limitation, lack of harmony of external design, color, location or relation to surrounding structures and topography and purely aesthetic considerations which, in the discretion of said Architectural Committee or Board of Directors, as applicable, shall deem sufficient. Notwithstanding the foregoing, the Architectural Committee or Board of Directors, as applicable, shall, in all of its considerations,

ensure that the proposal satisfies the criteria described in Section 8.2. After approval by the Architectural Committee or Board of Directors, as applicable, is given, no alterations may be made in such plans except by and with their prior written consent. One copy of all plans, specifications and related data shall be furnished the Architectural Committee or Board of Directors, as applicable, or the Architectural Committee or Board of Directors, as applicable, for its records.

8.2 Design and Related Criteria

The provisions of this Section shall be factors for the Declarant, or the Architectural Committee or Board of Directors, as applicable:

8.2.1 **MINIMUM SQUARE FOOTAGE:** Each Home shall have a minimum heated living space of 1200 sq ft for a one-story Home and 1500 sq feet for a two-story Home. Basement space, whether or not heated, may not be included in the calculation of a Home's minimum size of heated square feet.

8.2.2 **SETBACKS:** No Home or other structure shall be built within twenty (20) feet of any Lot boundary line or the edge of any roadway easement. In case of hardship, the Declarant or Architectural Committee may grant a variance.

8.2.3 **HOUSE EXTERIOR:** Exterior walls of each Home shall be constructed out of brick, stone, solid wood, and/or concrete solid board, and shall conform to an earth tone color scheme.

8.2.4 **VEGATATION:** Trees may be cut only for construction of a Home or ancillary outbuildings. Any other tree removal must be done with approval of Declarant or the Architectural Committee or Board of Directors, as applicable.

8.2.5 **ANIMALS:** Animals shall be permitted only in accordance with Section 9.6 of this Declaration

8.2.6 **FENCES:** No fence, other than ornamental fencing (stacked split rail as an example) shall be allowed. Ornamental fences may not exceed 4 feet in height. Underground "invisible fences" for the purpose of containing pets shall be permitted.

8.2.7 **DRIVEWAYS:** Driveways shall be graveled to match roads unless paving or asphalt is needed due to steepness of slope.

8.2.8 **ANCILLARY BUILDINGS:** All ancillary structures located on a Lot shall be designed as an integral part of the Home site, with finishes and colors to match the Home located on such Lot. The primary Home must be completed before additional ancillary structures are built. If a guest Home is built, it may not be rented separate from the Home.

8.2.9 **VEHICULAR STORAGE:** Boats, motor homes, trailers etc. shall be located and screened so that they are not visible from any other Lot or any road. Any tarpaulin used must be of an earth tone color. No trailers or motor homes may be used only for storage and they also may not be occupied at any time or used as a guest house.

8.2.10 **LIGHTING:** All exterior lighting is discouraged, except what is needed for safety to enter a Home. All exterior lighting plans must be approved by Declarant or the Architectural Committee or Board of Directors, as applicable, Lighting may not be left on overnight.

8.2.11 **SUBDIVIDING:** No portion of any Lot may be subdivided other than by Declarant.

8.2.12 **UTILITY EQUIPMENT:** Garage service area, heating and air equipment, electrical meter and trash containers must be screened with appropriate materials. Telephone and electric lines must be placed underground.

8.2.13 **ARCHITECTURAL REVIEW:** A site and Home plan must be submitted to the Declarant or the Architectural Committee or Board of Directors, as applicable, before any constructions commences. Certain models manufactured by Blue Ridge Log Homes may be pre-approved, but the site plan is subject to review before commencing construction. The Board shall advise all Owners of those Homes to be constructed that are pre-approved.

8.2.14 **CONSTRUCTION IMPACT FEE:** Prior to the commencement of any work upon a Lot, but after the approval of a site and Home plan by Declarant or the Architectural Committee or Board of Directors, as applicable, the Owner of such Lot shall deliver to the Treasurer of the HOA a construction impact fee in the non-refundable amount of Two Thousand Five Hundred and No/100 Dollars (\$2,500.00). If work commences after January 1, 2022, the non-refundable construction impact fee paid by Owner to the Treasurer of the HOA shall be Three Thousand Five Hundred and No/100 Dollars (\$3,500.00). The construction impact fee shall compensate the HOA for ordinary wear and tear that vehicles used in connection with the work impact the roads within the Planned Community, provided that Owner shall continue to be responsible for any specific damage caused by a vehicle used in connection with the work on such Owner's Lot. Payment of this construction impact fee shall not release or relieve an Owner from liability for damage beyond ordinary wear and tear.

ARTICLE IX

USE RESTRICTIONS

9.1 Use and Occupancy. The Association, acting through its Board of Directors, may make Rules and Regulations to govern the use and occupancy of the Planned Community. In addition, the following covenants, conditions, and restrictions, as to use and occupancy shall run with the land and shall be binding upon each Lot and each Owner, and his heirs, tenants, licensees and assigns.

9.2 Purpose of Planned Community. Except as otherwise provided in this Declaration, no part of the Planned Community shall be used for other than single family residential housing and the common recreational purposes for which the property was designed, and each Lot shall be used only for single family residential purposes. Except for the construction, sales and management activities (including, without limitation, the right of Declarant to maintain one or more model Homes, or sales offices) of the Declarant, no business, trade, industry, occupation or profession of any kind, whether for profit or not for profit, may be conducted, maintained, or permitted on any part of the Planned Community property. To the extent permitted by law, an Owner may use a portion of his or her Home for an office or studio (other than a music and/or dance studio) provided that the activities conducted therein shall not interfere with the quiet enjoyment or comfort of any other Owner or occupant; and provided further that such activities do not increase the normal flow of traffic or individuals in and out of the Planned Community or in and out of said Owner's Lot.

9.3 Obstruction of Common Areas. There shall be no storage or parking of any items, including baby carriages, playpens, bicycles, wagons, toys, vehicles, benches or chairs in any part of the Common Areas.

9.4 Parking. Except for vehicles being used by Persons providing services to the Declarant, the Association, or one or more Owners or otherwise used or authorized to be used at the Planned Community by the Declarant or the Association, no part of the Planned Community may be used for the parking of any mobile home, automobile trailer, truck which exceeds 3/4 ton, or any vehicle with letters or other markings over four inches tall or wide, or any other similar vehicle (collectively, "Special Vehicles"), unless such Special Vehicles are parked in the garage of the Owner who owns such Special Vehicle and the garage door of such Owner is completely closed at all times when a Special Vehicle is parked therein or unless such Special Vehicle is parked behind fencing or shielding that prohibit such Special Vehicle from being seen from a Common Area or other Lot. Operative vehicles, other than Special Vehicles, used by a resident of a Lot as a primary source of transportation may be parked in the driveway of such Owner or in any garage space owned by the Owner of such Lot. Inoperative vehicles may not be parked within the Planned Community unless these inoperative vehicles are parked in a garage and the garage door is completely closed or if the vehicle is parked behind fencing or shielding that prohibit such vehicle from being seen from a Common Area or other Lot. No auto maintenance and/or repairs may be performed within the Planned Community except if performed inside the garage on a Lot or if the vehicle is parked behind fencing or shielding that prevents such vehicle from being seen from a Common Area or other Lot. Vehicles, whether owned by an Owner or not, parked in violation of any part of this Declaration or in violation of any Rules or Regulations, may be towed away by the Association and stored at the Owner's risk and expense. By parking within the boundaries of the Planned Community, the owner of a vehicle or other vehicle user hereby waives any claim against the Association resulting directly or indirectly out of the towing, unless the towing can be shown beyond a reasonable doubt to have been done maliciously by the Association. Note that the Association is not obliged to try to determine the owner of a vehicle and first give notice, before towing the vehicle. If an Owner is not sure about the right to park upon any particular area or space, the Owner should request, in writing, a written opinion from the Board. If the Board gives the approval sought by the Owner or if the Board does not answer the written request by the Board, the Owner may park in the space until further written notice to the contrary from the Board. Note that the Association's right to tow a vehicle includes the right to immobilize it.

9.5 Compliance With Insurance Policies and Waste. Nothing shall be done or kept in any Home, in the Common Areas or on a Lot which will increase the rate of insurance of the buildings, or contents thereof, within the Planned Community, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his or her Home, in the Common Areas or on a Lot which will result in the cancellation of insurance on the Homes, buildings, or contents thereof, or which would be in violation of any law. No waste will be committed in the Common Areas. All laws shall be obeyed.

9.6 Animals and Pets. No animals of any kind shall be raised, bred, or kept on any Lot or in any Home or in the Common Areas, except that three (3) dogs, three (3) cats or a combination thereof which equals three (3) of each, or three (3) other household pets may be kept in a Home, subject to the Rules and Regulations, provided that it is not kept, bred or maintained for any commercial purpose, and that it is kept subject to the Rules and Regulations of the Association. Dogs, cats or other household pets must be kept within the confines of a Home except when being held on hand leash by the pet owner of the animal or within the confines of any approved fenced area. No Owner shall install a fence and/or electric fence on any portion of the Common Area without the prior written consent of the Board. No pet may be "staked", housed, tied up or otherwise left in any Common Area or Lot. An Owner shall be responsible for cleaning up after his household pet. Notwithstanding the above, the Association shall have the right to promulgate Rules and Regulations pertaining to the size, number and type of such household pets and the right to levy fines and enforcement charges against persons who do not clean up after their pets. Additionally, the right of an occupant to maintain an animal in a Home shall be subject to termination if the Board in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Planned Community or

occupants. No doghouse or other structure used or intended for the housing or keeping of animals may be constructed, placed or maintained on any part of the Common Areas.

9.7 Nuisances. No noxious or offensive activity shall be carried on in any Home or in the Common Areas or on the Lot of an Owner, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners or occupants.

9.8 Impairment of Structural Integrity of Building. Nothing shall be done in any Home, or on any Lot, or in, on or to any of the Common Areas which will impair the structural integrity of any building, structure or improvement or which, absent the prior written approval of the Board, would structurally change any building.

9.9 Laundry or Rubbish and Open Fires in Common Areas and Facilities. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Areas, or on any Lot if visible from any Common Area, neighboring Lot or street. The Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials. All trash, garbage or other rubbish shall be deposited only in covered sanitary containers as provided in Section 8.14 below. No open fires shall be permitted on any part of the Planned Community other than fires in charcoal grills or other similar cooking devices or within exterior fireplaces located upon Lots or grills, provided the use of such devices does not violate any local governmental rules or regulations.

9.10 Prohibited Activities. Except as otherwise provided in this Declaration, no business, trade, industry, occupation or profession of any kind, whether for profit or not for profit, shall be conducted, maintained or permitted on any part of the Planned Community. An Owner, however, shall be permitted to place and maintain a standard "For Sale" or "For Rent" sign in the window of his Home or upon his Lot; provided, however it is of a typical size within the industry or within an area expressly permitted by the Board of Directors. No other sign that is visible from the outside may be placed on any part of the Planned Community except as expressly permitted by the Board of Directors. Declarant and/or the Board shall have the right to immediately remove and dispose of those items in violation of this Declaration. An Owner must obtain the prior written consent of the Board of Directors in the event an Owner desires to maintain a "For Sale" or "For Rent" sign which is not of a typical size within the industry, or desires to maintain other displays or advertising, unless otherwise provided for under the Rules and Regulations. However, the right is reserved by the Declarant to use any such unsold or unoccupied Homes or other structures in the Planned Community as models and/or offices in connection with the construction, sale or rental of Homes. So long as the Declarant owns a Lot, no action may be taken nor may any Rule or Regulation may be adopted or amended that would (a) directly or indirectly alter the exterior appearance of any part of the Planned Community; (b) reduce or discontinue any maintenance standard or practice in effect as of the date when the Declarant no longer controls the Board; (c) adversely affects the Declarant's sale or leasing of any Lots; or (d) otherwise adversely affect the Declarant, any of his rights, or any Lot owned by him without, in each case, first obtaining the written consent of the Association.

9.11 Alteration of Common Areas. Nothing shall be altered or constructed in or removed from the Common Areas except as otherwise provided in this Declaration and except upon the written consent of the Board.

9.12 Rental of Lots. Homes in the Planned Community may be leased as homes or housing or rentals for a two (2) day, weekly, monthly or annual term. Daily rentals shall be prohibited.

9.13 Trash Disposal. Each Owner shall deposit all trash, garbage, or other rubbish as directed and instructed by the Board in trash containers at all times.

9.14 Nondiscrimination. No Owner (including the Declarant), or any employee, agent or representative thereof, shall discriminate upon the basis of sex, race, age, color, creed or national origin in the sale, lease or rental of any Lot nor in the use of the Common Areas.

ARTICLE X

ENFORCEMENT

10.1 Enforcement. The Association or any Owner may enforce these covenants, conditions and restrictions. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity against any Person or Persons violating or attempting to violate (a "Violating Party") any covenant, condition or restriction or any provision of this Declaration either to restrain or enjoin violation or to recover damages, and against the Lot of a Violating Party to enforce any lien created by these covenants or the Act or other applicable law. In addition to all other amounts due on account of said violation or attempted violation, the Violating Party shall be liable to the parties enforcing the covenants and/or restrictions of this Declaration for damages, attorneys' fees and court costs (the "10.1 Parties"). Failure or forbearance by the Association or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any lawsuit filed to enforce this Declaration by injunction or restraint, there shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any of the within covenants, conditions or restrictions cannot be adequately remedied by action at law or by recovery of damages.

10.3 Lot Access. In addition to the above rights, a representative of the Association may also enter upon a Lot or any land upon which a violation exists to remove or otherwise correct any violation, perform maintenance or make repairs thereon which is the responsibility of an Owner who has failed to remove said violation or to perform such maintenance or make such repairs (i) after having given such Owner at least ten (10) days prior notice, or (ii) without giving notice in the event of an emergency.

10.4 Actions By Association. Any action brought by the Association hereunder may be brought in its own name, in the name of its Board or in the name of its managing agent, if any. In any case of flagrant or repeated violations by an Owner, he or she may be required by the Association to give sufficient surety or sureties for his or her future compliance with the covenants, conditions and restrictions contained in this Declaration, the By-Laws and the Rules and Regulations.

10.5 Severability. Invalidation of any one of the covenants, conditions or restrictions contained in this Declaration by judgment or court order shall in no way affect any other provisions, all of which shall remain in full force and effect.

10.6 Restrictions Run With Land. The easements or other permanent rights or interests herein created, and the covenants and restrictions of this Declaration, shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, or their respective legal representatives, heirs, successors, or assigns.

10.7 Amendment. The Association (and the Declarant controlling the Association until the expiration of the Development Period) may amend this Declaration at any time, as long as consistent with the design, scheme and purposes of this Declaration, by the affirmative vote or written agreement of the Owners to whom not less than seventy-five percent (75%) of all of the

votes in the Association are allocated in accordance with Section 4.4 and Section 4.5 above. Any amendment must be recorded in the records of the Register of Deeds for Swain County, North Carolina. Following the end of the Development Period, no such agreement to amend, in whole or in part, shall be effective unless written notice of the proposed amendment is sent to every Owner at least thirty (30) days in advance of any action taken, and no such amendment shall be effective with respect to any permanent easements or other permanent rights or interests relating to the Common Areas herein created unless such amendment is consented to in writing by Declarant and all other beneficiaries of such permanent easements or rights of interests.

10.8 Reservation of Special Declarant Rights. Declarant reserves the right to maintain sales and management offices, model units, construction trailers, storage or staging areas, and advertising signs upon Lots or the Common Areas and upon Lots owned by it until the expiration of the Development Period and to exercise all other Special Declarant Rights. Without limiting the foregoing, and notwithstanding anything herein to the contrary, during the Development Period, Declarant shall have the right to annex additional Lots or Common Areas into the Planned Community by filing a supplement to this Declaration in the records of the Register of Deeds for Swain County, North Carolina, together with an amendment to the Plat (if applicable). Such additional Lots or Common Areas need not be contiguous to the Planned Community. Declarant shall have the right to assign all or a portion of any rights or easements reserved herein by a written assignment thereof, recorded in the records of the Register of Deeds for Swain County, North Carolina.

10.9 Management and Service Contracts. Any agreement for the professional management of the Planned Community or the Common Areas may not have a term that exceeds three (3) years and shall provide for termination by either party without cause and without payment of a termination fee upon reasonable notice.

10.11 Captions and Titles. All captions, titles or headings in this Declaration are for the purpose of reference and convenience only and are not deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

10.12 Notices. Except as otherwise provided in this Declaration, any notice to any Owner under this Declaration shall be in writing, shall be effective on the earlier of (i) the date when received by such Owner, or (ii) the date which is three (3) days after mailing (postage prepaid) to the last address of such Owner set forth in the books of the Association. The address of an Owner shall be at his Lot (or any of them if more than one) unless otherwise specified in writing to the Association. The Articles and By-Laws shall specify the permissible manner of giving notice for voting and all other Association matters for which the manner of giving notice is not prescribed in this Declaration.

10.13 Governing Law. This Declaration shall be deemed to be made under, and shall be construed in accordance with and shall be governed by, the laws of the State of North Carolina, and suit to enforce any provision hereof or to obtain any remedy with respect hereto shall be brought in state court in Swain County, and for this purpose each Owner by becoming such hereby expressly and irrevocably consents to the jurisdiction of any such court.

ARTICLE XI

NON-DEDICATED STREETS

11.1 Use. All non-dedicated streets constructed within the Planned Community are reserved as easements of public access for the common use of Owners and their families, guests and invitees, by commercial vehicles authorized to make pick-ups and deliveries within the Planned

Community, by public and private utilities' personnel, trucks and equipment, by postal authorities and mail carriers, by emergency personnel and vehicles such as police, fire and ambulance, by Persons servicing equipment located on a Lot or within a Home and by such other Persons or classes of Persons authorized by the Board of Directors as a means of ingress or egress, and for such other uses as may be authorized from time to time by said Board. Such non-dedicated streets may also include underground utility lines, mains, sewers or other facilities to transmit and carry sanitary sewerage and storm water drainage. Except as provided by this Declaration, no acts shall be taken or things done by an Owner or the Association which are inconsistent with the reservation and grant of use and enjoyment hereinabove provided.

11.2 Snow Removal, Maintenance, Reconstruction or Resurfacing. The Association, as a Common Expense, may, but shall not be obligated to, provide snow removal from any street within the Planned Community or any storm water drainage facilities included as a part thereof or installed thereunder as it deems necessary or appropriate from time to time within its sole discretion. At this time, during the Development Period, Declarant does not intend for the Association to incur the expense and logistics of snow removal.

11.3 Rules and Regulations. By a majority vote of the Board of Directors, the Association may, from time to time adopt, amend and repeal Rules and Regulations with respect to all aspects of the Association's rights, activities and duties under this Declaration. The Rules and Regulations may, without limitation, govern use of the Planned Community, including prohibiting, restricting or imposing charges for the use of any portion of the Planned Community by Owners or others, interpret this Declaration or establish procedures for operation of the Association or the administration of this Declaration; provided, however, that the Rules and Regulations shall not be inconsistent with this Declaration, the Articles, or the By-laws. A copy of the Rules and Regulations, as they may from time to time be adopted, amended or repealed, shall be maintained in the office of the Association and shall be available to each Owner upon request.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed as of the day and year first above written.

"DECLARANT"

By:  (SEAL)

Name: William Garvin, III, Declarant

JACKSON COUNTY

STATE OF NORTH CAROLINA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: William Garvin, III, as Declarant .

Witness my hand and official seal, this 12th day of May, 2021.

Candice G. Stanley

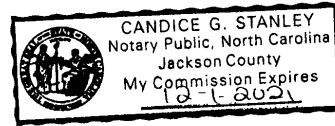
Notary Signature

Candice G. Stanley

Notary Printed Name

12-1-2021

Date Commission Expires



[NOTARIAL SEAL]