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**2023031698**  
**NEW HANOVER COUNTY, NC**  
MORGHAN GETTY COLLINS  
REGISTER OF DEEDS

NC FEE \$106.00

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
HIDDEN COVE PLACE TOWNHOMES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made the  
19 day of Dec, 2023, by Port City Capital, LLC, a NC limited liability company,  
hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property in New Hanover County, North Carolina, a subdivision known as "Hidden Cove Place Townhomes," which is described in that deed recorded in the Office of the Register of Deeds of New Hanover County, North Carolina in Book 6579 at Page 597 and described on that plat recorded in Map Book 49 at Page 361, said real property having the Tax Parcel ID Number R08814-001-062-000, to which reference is made for a more particular description, and further described as follows:

A tract of land located in the town of Carolina Beach, New Hanover County North Carolina being more particularly described as follows: beginning at a found iron pipe lying in the eastern right of way line of North Seventh Street (50 foot wide public right of way), said beginning point being located South 15 degrees 00 minutes 00 seconds West 214.41 feet from a concrete monument marking the intersection of the eastern line of North Seventh Street and the centerline of Olde Mariners Way (42 foot wide public right of way), thence South 75 degrees 01 minutes 12 seconds East 199.84 feet to a found iron pipe, thence North 15 degrees 02 minutes 28 seconds East 93.14 feet to a found iron rod, thence with the southern line of Olde Mariner's Village subdivision, a map of same being recorded in Map Book 46, Page 112 of the New Hanover County Register of Deeds Office South 75 degrees 04 minutes 28 seconds East 235.69 feet to a found iron rod, thence South 14 degrees 59 minutes 57 seconds West 200.05 feet to a found iron pipe lying in the northern line of Starboard Village, a map of same being recorded in Map Book 45, Page 347 of the New Hanover County Register of Deeds Office, thence with said northern line North 75 degrees 00 minutes 51 seconds West 289.60 feet to a

found iron rod, thence North 15 degrees 00 minutes 00 seconds East 70.16 feet to a found iron pipe, thence North 75 degrees 00 minutes 51 seconds West 146.00 feet to a found iron pipe in the eastern right of way line of North Seventh Street, thence with said line North 15 degrees 00 minutes 00 seconds East 36.48 feet to the point of beginning containing 1.34 acres more or less and being that property depicted as Lot G-2 & Lot G-1A, M.B. 48, PG. 53 To Lot G-4 (24,872.26 square feet) and Lot B-1-R (33,326.16 square feet) as shown on a recombination map for Kilauea Beach Properties, LLC entitled "Recombination of Tracts G-1 Revised, G-1A Revised & G-2 M.B. 48 PG. 53 AND Lots A & B M.B. 47 PG. 391" as recorded in Map Book 49, Page 361 of the New Hanover County Registry (referred to herein as the "Property," and may also be referred to herein as "Hidden Cove Place Townhomes" or the "subdivision"); and

WHEREAS, Declarant desires to place certain Covenants and Restrictions upon the above-described Property that comprise the subdivision known as "Hidden Cove Place Townhomes."

NOW, THEREFORE, Declarant declares that the Property described above shall be held, sold and conveyed subject to the North Carolina Planned Community Act set forth in Chapter 47F of the North Carolina General Statutes (the "Act"), as well as the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value of the desirability of, and which shall run with the land and be binding on and shall inure to the benefit of all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns.

#### ARTICLE I DEFINITIONS

Section 1. Association shall mean and refer to Hidden Cove Place Townhome Owners Association, Inc., a North Carolina non-profit corporation, its successors and assigns, the owners association organized for the purposes set forth herein.

Section 2. Declarant shall be used interchangeably with Developer (which designations shall include singular, plural, masculine and neuter as required by context).

Section 3. Declaration shall mean this instrument as it may be from time to time amended or supplemented.

Section 4. Lot(s) or Unit(s) shall mean and refer to a part of the Property that is to be subject to private ownership, together with any dwelling situated thereon, as designated in final as-built plats of each Lot or Unit to be recorded in the New Hanover County Registry by Declarant upon completion of the same. The terms Unit and Lot may be used interchangeably.

Section 5. Owner shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. Property shall mean the Property as defined in the preamble to this Declaration and shall be interchangeable with subdivision and Hidden Cove Place Townhomes.

Section 7. Member(s) shall mean and refer to every person or entity who has a Membership in the Association.

Section 8. Membership shall mean and refer to the rights, privileges, benefits, duties, and obligations, which shall inure to the benefit of and burden each Member of the Association.

Section 9. Home or Townhome shall mean the dwelling located on a Lot.

Section 10. Common Elements shall mean and refer to all lands and easements intended for the common use and enjoyment of the Owners, including, but not limited to, any recreational facilities that may be incorporated into the community, within or appurtenant to Hidden Cove Place Townhomes and owned or enjoyed by the Association, other than Limited Common Elements, as more specifically defined hereinbelow in Section 13, and as shown on proposed map recorded in Map Book 73 at Page 10, of the New Hanover County Registry, subject to any adjustments, revisions, changes, or alterations shown in the final as-built plat of the survey of the Property to be recorded at the time when the last dwelling has been built upon the last Lot therein. Common Element shall be interchangeable with Common Area. The Common Elements include, without limitation, the following:

A. All land, lawns, gardens, roads, parking, stormwater drainage system and other improved or unimproved areas not within any Lot or any Limited Common Element.

B. All installations of power, lights and water existing for common use and all other parts of the Property necessary or convenient to its existence, maintenance and safety or normally in common use, whether located on a Lot, Common Elements, or Limited Common Elements.

C. All common sewer and drainage pipes,

D. All other apparatus, equipment and installations existing outside of the Lots and any Limited Common Element for common use or as necessary or convenient to the existence, maintenance or safety of certain structures and/or Common Elements.

Section 11. Common Expenses means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

Section 12. Common Expense Liability means the liability for Common Expenses allocated to each Lot as permitted by the Act, this Declaration or otherwise by law.

Section 13. Limited Common Elements shall mean and refer to those portions of the Common Elements that are allocated for the exclusive use of a particular Lot, as more specifically defined herein, and as shown on proposed map recorded in Map Book 73 at Page 10, of the New Hanover County Registry, subject to any adjustments, revisions, changes, or alterations shown in the final as-built plat of the survey of the Property to be recorded at the time when the last dwelling has

been built upon the last Lot therein. Any driveway, patio, or deck that serves only one Lot, regardless of any as-built encroachment of a part or portion of said Limited Common Element into a Common Element, is defined as being a Limited Common Element, the use of which is limited to the Owner, Guests, Invitees, Tenants, and other users of the Lot to which it is attached. Each Lot Owner is solely responsible for the maintenance, repair, replacement and upkeep of the features located on their assigned Limited Common Elements, including, but not limited to, structures, fences, driveways, decks, patios and landscaping, regardless of whether any as-built part of portion of said Limited Common Element encroaches upon a Common Element.

Section 14. Private Roads will mean and refer to the paved roadways within the Property limits of Hidden Cove Place Townhomes, as shown on approved Hidden Cove Place Townhomes plats recorded or hereinafter recorded in the New Hanover County Registry. All references to roadways within the Property and private roads in this Declaration, whether capitalized or not, shall be references to this defined term.

## ARTICLE II PRIVATE ROADS

Section 1. The roadways within the Property limits of Hidden Cove Place Townhomes are private roads. All road maintenance shall run through the Association in perpetuity after acceptance from the Developer until such time that the roads are re-platted, publicly designated roads, and taken over for maintenance through the North Carolina Department of Transportation (NCDOT) or other appropriate governing authority. The Developer of Hidden Cove Place Townhomes is aware that the Property is located in the unincorporated area of New Hanover County and the Association understands that the roads in said subdivision and access roads providing connectivity to Hidden Cove Place Townhomes are designated private unless otherwise proven as under and accepted by NCDOT maintenance. The maintenance of said roads is the responsibility of the Association, with or without additional agreements recorded showing that others have maintenance responsibility.

Section 2. The private roads in said subdivision are to be constructed in accordance with Section 52.4 of the New Hanover County Subdivision Ordinance and all applicable County Codes which include the design, installation, inspection and approval by a licensed Profession Engineer (PE) recognized by the State of North Carolina prior to final plat approval for all or a portion of the subdivision. If all or a portion of the road infrastructure system within the subdivision is bonded through a surety, performance bond, or cash escrow, no bond shall be released until all road construction improvements for the portion thereof are complete and certified by the professional Engineer.

## ARTICLE III DESCRIPTION OF THE BUILDINGS

Section 1. The Declarant is the owner of eight (8) standalone Lots located upon the Property. The Declarant hereby dedicates the aforesaid Property and Lots to Townhome ownership. A proposed plat of the survey of the Property by Joshua M. McKittrick, Registered Land Surveyor, showing the proposed location of said Lots, designated as Lot #522-1, Lot #522-2, Lot #522-3,

Lot 522-4, Lot #522-5, Lot #522-6, Lot #522-7, and Lot #522-8, is recorded in Map Book 73 at Page 10, of the New Hanover County Registry, and subject to any adjustments, revisions, changes, or alterations shown in the final as-built plat of the survey of the Property to be recorded at the time when the last dwelling is built upon the last Lot. . The maximum number of Lots in the subdivision will be eight (8).

Section 2. All Lots have access to all of the Common Elements designated on the Plats and Plans (as "C" or "CE" or "Common Area" or "Common Access") recorded or hereinafter recorded in the New Hanover County Registry, as shown on the proposed map of the survey of the Property, recorded in Map Book 73 at Page 10, of the New Hanover Registry, and subject to any adjustments, revisions, changes, or alterations shown in the final as-built plat of the survey of the Property to be recorded at the time when the last dwelling is built upon the last Lot.

Section 3. The Limited Common Elements and facilities are defined herein and are shown on the Plats and Plans of the Property (as "L" or "LE" or "LCE" or "Limited Common Area") recorded or hereinafter recorded in the New Hanover Registry, as shown on the proposed map of the survey of the Property, recorded in Map Book 73 at Page 10, New Hanover County Registry, and subject to any adjustments, revisions, changes, or alterations shown in the final as-built plat of the survey of the Property to be recorded at the time when the last dwelling is built upon the last Lot.

Section 4. Each Lot shall be conveyed and treated as an individual property capable of independent use and fee simple ownership. It is understood that the fee simple ownership of the Common Areas and the Limited Common Elements shall be vested in the Hidden Cove Townhome Owners Association, Inc.

#### ARTICLE IV PROPERTY RIGHTS AND EASEMENTS

Section 1. Owner's Property Rights and Easement of Enjoyment in the Common Area. Every Owner shall have and is hereby granted a right and easement of enjoyment in existing and any future Common Areas, if any, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

(a) The Association may make and amend reasonable rules and regulations governing the use of any existing or future Common Areas by the Owners, and limiting the number of guests of Members;

(b) The Association may levy fines in accordance with applicable statutes relating to Owners' use of any existing or future Common Areas.

Section 2. Easements in Favor of Declarant and the Association. The following easements are reserved to Declarant and the Association, their successors and assigns:

(a) Any as shown upon the proposed map of the survey of the Property, recorded in Map Book 73 at Page 10, of the New Hanover Registry, and subject to any adjustments, revisions,

changes, or alterations shown in the final as-built plat of the survey of the Property to be recorded at the time when the last dwelling is built upon the last Lot.

(b) An easement of unobstructed access over, on, upon, through and across each Lot and the Limited Common Elements located thereon, if any, at all reasonable times to perform any maintenance and repair to the structures located upon each Lot or to the Limited Common Elements required by this Declaration. This easement shall also run in favor of the Association and the Association's agents, employees, successors and assigns.

Section 3. Other Easements. The following easements are granted by Declarant to others:

(a) an easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services, to enter upon all private roads, Limited Common Elements and Lots in the performance of their duties;

(b) in case of any emergency originating in or threatening any Lot, Common Areas or Limited Common Elements, regardless of whether any Lot Owner is present at the time of such emergency, the Association or any other person authorized by it, shall have the right to enter any Lot for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the Lot Owners, and such right of entry shall be immediate;

(c) the Association is granted an easement over each Lot and Limited Common Element for the purposes of providing Lot or Limited Common Element maintenance when an Owner fails to provide maintenance and upkeep in accordance with this Declaration.

Section 4. Nature of Easements. All easements and rights described herein are perpetual easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the Declarant and the Association, their successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the Property or any additional property, or any part or portion thereof, regardless of whether or not reference is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

Section 5. Extent of Members Easements. The rights and easement created hereby shall be subject to the following:

(a) The right of the Developer, and of the Association, to dedicate, transfer or convey all or any part of the Common Elements or Limited Common Elements, with or without consideration to any successor association, governmental body, district, agency or authority, or to any utility company, provided that no such dedication, transfer or conveyance shall adversely affect the use of the Common Elements or Limited Common Elements by the Members of the Association;

(b) The right of the Developer and of the Association, to grant and reserve easements and right-of-way through, under, over and across the Common Elements or Limited Common Elements for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, fuel oil and other utilities and services, including a cable (CATV)

or community antenna television system, irrigation or lawn sprinkler systems, and the right of the Developer to grant and reserve easements and rights-of-way through, over, and upon and across the Common Elements or Limited Common Elements for the completion of the subdivision;

(c) The right of visitors, invitees, etc., to ingress and egress in and over those portions of the Common Elements and Limited Common Elements that lie within the private roadways, parking lots and/or driveways (and over any other necessary portion of the Common Elements in the case of landlocked adjacent Owners) to the nearest public highway;

(d) The right of the Association, as provided herein and in its by-laws, to suspend the enjoyment of rights of any Member for any period during which any assessment remains unpaid. Provided, however, that the right of a Member to ingress and egress over the roads and/or parking areas shall not be suspended;

(e) The right of the Association, as provided herein and in its by-laws to suspend the rights of any Member for any infraction of its published rules and regulations. Provided, however, that the right of a Member to ingress and egress over the roads and/or parking areas shall not be suspended;

(f) The rights of the Association, in accordance with law, and its Articles of Incorporation and by-laws, to borrow money for the purpose of improving the Common Elements and in pursuance thereof to mortgage the same.

#### ARTICLE V RIGHT OF ASSOCIATION TO ALTER, IMPROVE, MAINTAIN, AND REPAIR COMMON ELEMENTS AND DRAINAGE DITCH AREAS

The Association shall have the right to make or cause to be made such alteration, modifications, improvements, repairs, maintenance and replacements to the Common Elements and the drainage ditch area(s), and the cost thereof shall be assessed as common expenses and collected from the Lot Owners on an equal basis.

#### ARTICLE VI USE RESTRICTIONS

The use of the Property shall be in accordance with the following provisions:

A. Each of the Lots shall be occupied only for residential purposes, including residential rental purposes, and for no other purposes. No Lot may be divided or subdivided into smaller lots nor any portion thereof sold or otherwise transferred without the consent of all Lot Owners and all applicable municipal approvals.

B. The Common Elements intended for the common use and enjoyment of the Owners, including, but not limited to, any recreational facilities that may be incorporated into the community, within or appurtenant to Hidden Cove Place Townhomes and owned or enjoyed by the Association, shall be used only for the purposes for which they are intended.

C. No use or practice shall be permitted on the Property that reasonably could be considered the source of annoyance to other residents or interfering with the peaceful possession and proper use of the Property by its residents. All parts of the Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate, nor any fire hazard allowed to exist. No Owner shall permit any use of his/her Lot, Limited Common Element or of the Common Elements that will increase the rate of insurance upon the Townhouse Property or any part thereof. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Rentals of less than the whole Lot is strictly prohibited.

D. Reasonable regulations concerning the use of the Property may be made and amended from time to time by the unanimous consent of the Lot Owners of Hidden Cove Place Townhome Owners Association, Inc. (herein referred to as the "Association").

E. Each Lot Owner shall maintain, repair and replace, at his or her own expense, all portions of his or her Lot and Limited Common Element associated with his or her Lot. Except as may be provided in this Declaration, each Lot Owner shall have the exclusive right and duty to maintain, repair, replace and upkeep said Owner's Lot and associated Limited Common Element. Each Lot is equally responsible for the costs of maintenance and repair of the Common Elements, including, but not limited to, the private roads within the Property limits of Hidden Cove Place Townhomes and shown on approved Hidden Cove Place Townhomes plats recorded or hereinafter recorded in the New Hanover County Registry. However, with the exception of regular wear and tear, in the event the Owners of one Lot, or any member of a Lot Owner's family, or Owner's guests, invitees, licensees, agents, occupants, users, or tenants, are responsible for damage to the road, which causes the need for repair or replacement, that Lot Owner is responsible for the costs of such repair or replacement of the road.

F. No Lot Owner shall affix any object to the Common Elements (including fences, flowers, trees, shrubs or other vegetation) without first obtaining the written consent of all members of the Association.

G. No time share Lots as defined by Chapter 93A of the North Carolina General Statutes or any successor statute shall be permitted within the Property and no Lot may be conveyed pursuant to any such timesharing plan or scheme.

H. No animals, livestock or poultry of any kind shall be raised, bred, kept or maintained on any Lot, Limited Common Element, or in any dwelling except certain domestic household pets, as may be otherwise provided by rules and regulations approved by all members of the Association. The rules and regulations may regulate, permit or prohibit the kind and number of domestic household pets. Domestic household pets may not be raised, bred, kept or maintained for any commercial purposes. All household pets shall be kept on a leash at all times when outside the Lots and animal waste must be immediately removed. Such pets may not be permitted to run at large at any time. Owners of pets on the Property shall control excessive barking or other disturbances caused by the pets.

I. All window coverings (i.e. curtains, blinds, draperies, shades, etc.) shall appear white from the exterior unless otherwise approved by all members of the Association.

J. Lot Owners shall not park or store any boat, camper, trailer, jet-skis, small watercrafts, or similar vehicle anywhere on the Property. No trucks shall be permitted except for standard 2-ton pickup trucks, or smaller sized trucks. All tools or other materials stored in vehicles for overnight parking shall be kept out of sight. No stripped, wrecked or partially wrecked, or junk motor vehicle or part thereof, or any motor vehicle not displaying a current valid inspection sticker shall be permitted to be parked or kept on the Property. No repairs to any vehicles may be made on the Property, including, but not limited to, the Lot, Common Elements or Limited Common Elements.

K. No burning of wood, leaves, trash, garbage or household refuse or burning as a means of clearing brush shall be permitted on the Property.

L. Garbage and trash shall be disposed by Lot Owners in accordance with the applicable municipal ordinances. Trash cans must be removed from the street within 24 hours of pick-up.

M. No laundry or wash shall be dried or hung visibly outside on any Lot, Common Element, or Limited Common Element.

N. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements by any Lot Owner without the prior written approval of the Association.

O. In the event that the need for maintenance, repair, or replacement of all or any portion of the Common Elements is caused through or by the negligent or willful act or omission of a Lot Owner, or by any member of a Lot Owner's family, or Owner's guests, invitees, licensees, agents, occupants, users, or tenants, then the expenses incurred by the Association for such maintenance, repair or replacement shall be a personal obligation of such Lot Owner. If the Lot Owner fails to repay the expenses incurred by the Association within 30 days after notice to the Lot Owner of the amount owed, then the failure to so repay shall be a default by the Lot Owner under the provisions of this Section, and such expenses shall automatically become a Default Assessment enforceable in accordance with Article IX herein.

P. Homeowners shall not cut, remove, or alter the vegetative landscape buffer located in any Common Area or Limited Common Area of Hidden Cove Place Townhomes.

Q. No noxious or offensive activity shall be carried on upon any Lot or Limited Common Element, nor shall anything be done thereon which may or may become an annoyance or nuisance to the subdivision. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of other Lots, inclusive of their respective Limited Common Elements, by the Owner thereof. It shall be the responsibility of each Owner to prevent any unclean, unsightly or unkempt condition of dwellings, structures or grounds on the

Owner's Lot and respective Limited Common Element which would tend to decrease the beauty of the subdivision as whole or the specific area.

R. No structure of a temporary character, trailer, basement, tent, garage, barn, or other outbuilding shall be used on any Lot or Limited Common Element at any time as a residence either temporarily or permanently without the written consent of the Association or its designee; provided, however, that this shall not prevent the Declarant, its designees or assigns from maintaining a construction trailer or office on any part of the Project until the construction of dwellings on all Lots and improvements within Hidden Cove Place Townhomes are completed.

S. No yard statuary, yard art, or TV satellite signal receiving dishes are permitted on any Lot or Limited Common Element and no outside radio or television antennas shall be erected on any Lot, Limited Common Element, or dwelling unless and until permission for the same has been granted by the Board of Directors of the Association or its Architectural Control Committee; provided, however, satellite dishes not over eighteen (18) inches in diameter which cannot be seen from the street are permitted.

T. No person shall undertake, cause or allow alteration or construction in or upon any portion of future Common Elements, except at the direction or with the express written consent of the Association or as permitted by this Declaration.

U. Subject to any right reserved to the Declarant herein, no Lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Declarant during the period of Declarant control of the Association and thereafter by the Board of Directors of the Association.

## ARTICLE VII FENCES

Section 1. Each Lot will have a fence to enclose the Limited Common Elements attached and allocated to their Lot.

Section 2. Each Lot Owner will be responsible for maintenance, repair, replacement and upkeep of fencing that is located on the Limited Common Element attached and allocated to their Lot. If the fence is located on a line that is shared with an adjoining Limited Common Element, the Lot Owners who share that section of fence shall be equally responsible for maintenance, repair, replacement and upkeep of the shared fence.

Section 3. The form, style, and location of the fence shall be in accordance with the specifications shown on Exhibit "B" attached hereto and incorporated herein by reference. The style and form of the fence cannot deviate from the specifications as shown on Exhibit "B" unless all Lot Owners of Hidden Cove Place Townhomes unanimously agree in writing to the deviation.

ARTICLE VIII  
AMENDMENTS

Section 1. Amendment of Declaration by the Declarant. This Declaration may be amended without member approval by the Declarant, or the Board of the Association, as the case may be, as follows:

- (a) in any respect, prior to the sale of the first Lot from the Declarant;
- (b) to the extent this Declaration applies to additional property;
- (c) to correct any obvious error or inconsistency in drafting, typing or reproduction;
- (d) to qualify the Association or the Property and additional property, or any portion thereof, for tax-exempt status;
- (e) to include any platting change as permitted herein;
- (f) to conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or any additional property or to qualify the Property or any additional property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of the United States Government or of the State of North Carolina, regarding purchase or sale of such Lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of property, including, without limitation, ecological control, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, U.S. Department of Housing and Urban Project, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion. Notwithstanding anything else herein to the contrary, only the Declarant, during the Developer Control Period, shall be entitled to amend this Declaration pursuant to this Section.

ARTICLE IX  
HOMEOWNER'S ASSOCIATION

Section 1. Formation of Association. The Association is a nonprofit corporation organized pursuant to the Nonprofit Corporation Act of the State of North Carolina for the purpose of establishing an association for the Owners of Lots to (i) own, operate and maintain the Common Elements, (ii) to maintain the Limited Common Elements, if and as necessary, and (iii) serve as a member of the Association, all in accordance with this Declaration, the Association's Charter and Bylaws. The Bylaws of the Association are set forth in Exhibit "A" attached hereto and incorporated herein by reference.

Section 2. Membership. Every Lot Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Lot ownership.

Section 3. Voting Rights. The Association shall have one class of voting Membership. Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting with respect to any Lot is hereby prohibited.

Section 4. Government Permits. All duties, obligations, rights and privileges of the Declarant under any water, sewer, storm water, and utility agreements, easements, and permits for the Project with municipal or governmental agencies or public or private utility companies are at all times the responsibility of the Association.

Section 5: Maintenance and Repair

(A) Individual Lots. All maintenance, repair and replacements to each individual Lot, structural or non-structural, ordinary or extraordinary, (other than maintenance of and repairs to any Common Elements contained therein not necessitated by the negligence, misuse, or neglect of the Owner of such Lot) shall be made by the Owner of such Lot, including all front and side yard landscaping (to include irrigation) and all exterior maintenance to include the roof, doors and windows. Each Lot owner shall be responsible for all damages to any other Lot and to the Common Elements resulting from his failure to affect such maintenance and repairs. The Association shall only be responsible for repairs and maintenance not covered by the insurance required to be maintained by the Lot Owners, and prior to making repairs, which are or may be covered by insurance, the owner is required to submit a claim with their insurance carrier. Any structural damage is to be replaced with the same or similar products in order to maintain the continuity of the appearance of Hidden Cove Place Townhomes.

(B) Common Elements. All maintenance, repairs and replacements to the Common Elements, whether located inside or outside of the Lots (unless necessitated by the negligence, misuse, or neglect of a Lot owner, in which case such expense shall be charged to such Lot owner), shall be made by the Board of Directors and be charged to all of the Lot Owners equally as a Common Expense, including, but not limited to, the stormwater management system, private roads, and any recreational facilities that may be incorporated into the community, inclusive of any future Common Elements.

(C) Limited Common Elements. All maintenance, repairs, and replacements to the Limited Common Elements shall be made by the specific Lot Owner which the Limited Common Element serves. Expenses for such maintenance, repairs, or replacements shall be the responsibility of the specific Lot Owner to which the Limited Common Element serves.

Section 6: Damage or Destruction. Except as hereinafter provided, damage to or destruction of a Lot or Limited Common Element shall be promptly repaired and restored by the Lot owner responsible thereto.

Section 7: Use of Lots In order to provide for continual occupancy of the Lots and for the protection of their values, the Lots shall be used for residential purposes only.

Section 8: Additions, Alterations, or Improvements by Board of Directors. Whenever, in the judgment of the Board of Directors, the Common Elements shall require additions, alterations, or improvements costing in excess of \$4,000.00, and the making of such additions, alterations, or improvements shall have been approved by the Lot Owners, the Board of Directors shall proceed with such additions, alterations, or improvements and shall assess all Lot Owners for the cost thereof as a Common Expense. Any such additions, alterations or improvements costing \$4,000.00 or less may be made by the Board of Directors without special approval of the Lot Owners and the cost thereof assessed to all Lot Owners as a Common Expense.

Section 9: Additions, Alteration, or Improvements by Lot Owners. No Lot Owner shall make any structural addition, alteration or improvement, to include color, roofing and/or landscaping in or to his Lot or Limited Common Element without prior written consent thereto of the Board of Directors. The Board of Directors shall have the obligation to answer any written request by a Lot Owner for approval of a proposed structural addition, alteration, or improvement in such Lot Owner's Lot or Limited Common Element within thirty (30) days after such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Directors to the proposed addition, alteration or improvement. The Board of Directors shall not be liable to any contractor, subcontractor, or materialman or to any person sustaining personal injury or property damage, for any claim arising in connection with such addition, alteration, or improvement.

Section 10: Right of Access. A Lot Owner shall grant a right of access to his Lot and/or Limited Common Element to any person authorized by the Board of Managers, to make inspections; to correct any condition originating in his Lot and/or Limited Common Element and threatening another Lot, Limited Common Element, or Common Element, to install, alter or repair mechanical or electrical services or other Common Elements in his Lot or respective Limited Common Element, and to correct any condition which violates the provisions of any mortgage covering another Lot. Requests for such entry shall be made in advance and such entry shall be scheduled for a time reasonably convenient to the Lot Owner. However, in case of an emergency, such right of entry shall be immediate whether the Lot Owner is present at the time or not.

## ARTICLE X INSURANCE AND BONDS

Section 1. Insurance.

(a) Insurance Obtained by the Association. The Association may obtain liability insurance to cover losses not insured by the policies of the Lot Owners, particularly those potentially arising from occurrences on the Common Elements, to the extent deemed necessary or desirable by the

Association. The determination of whether or not to obtain liability insurance shall be made by the Association after the last Lot has been conveyed from the Developer.

(b) Premiums. Any and all premiums on such insurance policies obtained by the Association and any deductibles payable by the Association upon loss shall be a Common Expense.

(c) Proceeds. All insurance policies purchased pursuant to these provisions shall provide that all proceeds thereof shall be payable to the Board of Directors as insurance trustee or to such attorney-at-law or institution with trust powers as may be approved by the Board of Directors.

(d) Policies. All insurance policies purchased by the Board of Directors shall be with a company or companies permitted to do business in the State of North Carolina. All insurance policies shall be written for the benefit of the Board of Directors and the Lot Owners and any mortgagees as their respective interests may appear, and shall provide that all proceeds thereof shall be payable to the Board of Directors and duplicates of said policies and endorsements and all renewals thereof, or certificates thereof, together with proof of payment of premium, shall be delivered to the Owners at least ten (10) days prior to the expiration date with respect to the then current policies. Duplicates shall also be obtained and issued by the Association to each mortgagee, if any, upon request of such mortgagee.

(e) Individual Policies. The insurance coverage for the individual Lots and the structure(s) thereon, including, but not limited to, the exterior of the structure and roof, shall be purchased as individual policies under such terms and conditions as the Association may prescribe by the individual Lot Owners. Each Lot shall be insured for its full replacement value; and each Lot Owner must provide proof of insurance upon request by the Association. If a Lot Owner fails to comply with the insurance requirements set forth above the Association shall have the right to purchase insurance on the Lot at the non-complying Lot Owner's expense.

(f) Master Policy. The Association, if it deems necessary, reserves the right to purchase a Master Policy to cover all improvements upon the Property including the individual Lots and Limited Common Elements, to be prorated, apportioned and paid by the Lot Owners.

(g) Distribution of Insurance Proceeds. Proceeds of insurance policy for the Common Elements shall be distributed to or for the benefit of the beneficial owners in the following manner:

- (1) all reasonable expenses of the insurance trustee shall be paid or provision made thereof;
- (2) the remaining proceeds shall be used to defray the cost of repairs for the damage or reconstruction for which the proceeds are paid. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners, including lienholders of record, or retained by the Association for such Common Expenses or purposes as the Board shall determine.

Section 2. Fidelity Bond. The Association may maintain blanket fidelity bonds for all officers, directors, employees, and all other persons handling or responsible for funds of the Association,

as follows (provided, however, that if the Association shall delegate some or all of the responsibility for the handling of its funds to a management agent, such fidelity bonds shall be maintained by such management agent for its officers, employees and agents handling or responsible for funds or administered on behalf of the Association).

## ARTICLE XI COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed for the Owner's Lot, whether or not is shall be so expressed in such deed, covenants and agrees to pay to the Association the following assessments (collectively the "Assessments"):

The Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the respective Lot against which the Assessments are made. Each such Assessment, together with interest costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties (and their respective families, guests, tenants, and invitees) and for the improvement, protection, replacement and maintenance of the Common Elements and for the provisions of various forms of insurance for the Association, its property, members, directors, officers, employees, and agents.

Section 3. Capital Contribution. The first Owner of a new Lot shall pay a \$1,500.00 Capital Contribution into the general Association fund. This is not a payment toward monthly Association Dues. This payment is toward the Association budget responsibilities.

Section 4. Annual Assessments. The Board of Directors shall adopt a proposed annual budget at least ninety (90) days before the beginning of each fiscal year. Within thirty (30) days after adoption of the proposed budget for the Project, the Board of Directors shall provide all of the Lot Owners a summary of the budget and notice of a meeting to consider its ratification including a statement that the budget may be ratified without a quorum. The budget is ratified unless, at the meeting, a majority of all the Lot Owners in the Association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Lot Owners shall be continued until such time as the Lot Owners ratify a subsequent budget proposed by the Board of Directors. The Annual Assessment for each Lot shall be established based on the annual budget thus adopted. The due date for payment of Annual Assessments shall be established by the Board of Directors. The Board of Directors shall have the authority to require the Annual Assessments to be paid in periodic installments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Annual Assessments on a specified Lot have been paid.