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FOR REGISTRATION REGISTER OF DEEDS  
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NEW HANOVER COUNTY, NC  
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NORTH CAROLINA  
COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
MAGNOLIA TRACE TOWNHOMES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made this the 25<sup>th</sup> day of JULY, 2007 by MAGNOLIA TRACE, LLC hereinafter referred to as "Declarant".

Declarant is the owner of certain property in the County of New Hanover, State of North Carolina, which is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference. Declarant desires to create thereon an exclusive residential community of single-family attached Townhomes to be named MAGNOLIA TRACE TOWNHOMES.

Declarant desires to insure the attractiveness of the townhome community and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within the Townhome community and to provide for the maintenance and upkeep of the exterior of all Townhome Units and the Common Area, as hereinafter defined. To this end the Declarant desires to subject the real property described on Exhibit "A" attached hereto to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof.

Declarant has deemed it desirable, for the efficient preservation, protection and enhancement of the values and amenities in the Townhome community and to insure the residents' enjoyment of the specific rights, privileges and easements in the Common Area, as hereinafter defined, and to provide for the maintenance and upkeep of the exterior of all Townhome units and the Common Area, to create an organization to which will be delegated and assigned the powers of

owing, maintaining and administering the Common Area and maintaining the exterior of the Townhome units, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter creating.

To that end the Declarant has or will cause to be incorporated under North Carolina law, MAGNOLIA TRACE HOMEOWNERS ASSOCIATION, INC., as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Declarant by this Declaration of Covenants, Conditions and Restrictions, does declare that all of the property described on Exhibit "A" attached hereto and incorporated herein by reference is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall run with the real property and be binding on all parties owing any right, title or interest in said real Property or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

## **ARTICLE I DEFINITIONS**

Section 1. "Association" shall mean and refer to MAGNOLIA TRACE HOMEOWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns.

Section 2. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area shall be all of the property shown on the attached Exhibit "A", with the exception thereof of those portions of same upon which townhomes are built or shall be built. The Common Area shall be conveyed to the Association no later than at the time the final Townhome has been constructed and conveyed by the Declarant.

Section 3. "Declarant" shall mean and refer to MAGNOLIA TRACE, LLC, its successors and/or assigns.

Section 4. "Limited Common Element" shall mean those portions of the Common Elements allocated for the exclusive use of one or more, but few than all, of the Townhome Units.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Townhome which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligations.

Section 7. "Properties" shall mean and refer to the "Existing Properties" described in Exhibit "A" attached hereto and incorporated herein.

Section 8. "Townhome" or "Townhome(s)" shall mean and refer to the attached single family dwelling unit(s) to be constructed by Declarant on portions of the Properties described in Exhibit "A" and may also include single unattached Townhome(s), if same are permitted by governmental authority.

**ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION  
AND WITHIN THE JURISDICTION OF  
MAGNOLIA TRACE TOWNHOMES**

Section 1 Existing Property The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Association is located in New Hanover County, North Carolina and is more particularly described in the meters and bounds description attached hereto as Exhibit "A" , subject to the provisions Article XIII, Section 4.

Section 2. Additions to Existing Property.

(a) Expansion. Additional lands may become subject to this Declaration to the extent such lands are described on Exhibit B attached hereto. The additions authorized hereunder may be made in one or more phases. Said additions shall be made by filing of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property desired to be annexed, which Supplemental Declaration shall extend the scheme of these Covenants and restrictions to such property by adopting these Covenants and Restrictions by reference. Such Supplemental Declaration may contain such complementary additions and modifications of the Covenants and Restrictions contained in this Declaration as may be necessary to reflect the difference character, if any, of the added properties and as such are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplemental Declaration revoke, modify or add to the Covenants established by this Declaration as described on Appendix A attached hereto. Any annexation made hereunder must be completed on or before December 31, 2016. Any such amendment shall specify the date upon which dues and assessments are payable for Lots annexed thereby.

- (b) Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may by operation of law be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the Covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the Covenants established by this Declaration within the Property except as hereinafter provided.

### **ARTICLE III PROPERTY RIGHTS**

Section 1. Conveyance of Townhomes Each owner shall be conveyed a fee simple title only to the actual ground upon which the completed unit is situated, together with one-half of the party wall separating two or more Townhomes.

Section 2. Owner's Easements of Enjoyment Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Townhome, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use the recreational facilities by an Owner for any period during which any assessment against his Townhome remains unpaid; and for a period not to exceed sixty days for any infraction of its published rules and regulations; and
- (c) the right of the Association to grant utility, cable television, drainage and other easements of the type and for the purposes set forth in Article X.

Section 3 Owner's Easements for Ingress and Egress Every Townhome shall be conveyed with a perpetual, non-exclusive right to use any common roadway, walkway or driveway in MAGNOLIA TRACE TOWNHOMES, which may be constructed by the Declarant and conveyed to the Association as part of

the Common Area for the purpose of providing vehicular and pedestrian access to and from each Townhome.

Section 4. Stormwater Retention. The North Carolina Department of Environmental Management has required there to be constructed a stormwater retention pond for the benefit of the property described on Exhibit A and the property described on Exhibit B. The Association shall maintain in good and usable condition, and in accordance with regulations and standards adopted and/or imposed by the North Carolina Department of Environmental Management, the stormwater retention pond and distribution system located on property subjected to this Declaration.

Section 5. Delegation of Use Any Owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

#### **ARTICLE IV MEMBERSHIP, VOTING RIGHTS AND CONTROL**

Section 1 Every Owner of a Townhome which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Townhome which is subject to assessment.

Section 2 All rights, duties and privileges of Membership shall be as provided in the Bylaws.

Section 3. Voting Rights. The Association shall have two classes of voting membership.

Class A. Class A Members shall be all those Owners as defined in Section 1 with the exception of the Developer. Class A Members shall be entitled to one vote for each Lot or Townhome Unit in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot or Townhome Unit, all such persons shall be members, and the vote for such Lot and Townhome Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot or Townhome Unit.

Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to three (3) votes for each Lot or Townhome Unit in which it holds interests required for membership. The Class B membership shall cease and become converted to Class A membership at the earlier occurrence of the following events:

(a) When the total member of Class A Members equals or exceeds seventy-five percent (75%) of the total number of planned Townhome Units or

(b) Until December 31, 2027

From and after the happening of the earlier to occur of these events, The Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot or Townhome Unit in which it holds the interests required for membership under Section 1.

Section 4. The Association shall be governed by a Board of Directors in accordance with the Bylaws.

## **ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessment  
The Declarant, for each Townhome owned within the Properties, hereby covenants, and each Owner of any Townhome, by acceptance of a deed therefore, whether or not shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) QUARTERLY assessments or charges, (2) INSURANCE assessments to pay insurance premiums, and (3) special assessments for capital improvements, including the maintenance and repair of the Disposal System and appurtenances (as shown in Exhibit C), such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorney's fees, shall be a charge against the Townhome and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment or charge, together with interest, costs or reasonable attorney's fees, shall also be and in the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments The assessments or charges levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and in particular for the maintenance, repair and reconstruction of the exterior of the Townhomes and the common roadways, driveways and parking areas and walkways serving the Townhomes and for the acquisition, improvements and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, but not limited to, the cost if repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, landscaping and grounds maintenance of Common Area, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance

with the Bylaws, the employment of attorneys and/or accountants to represent the Association, when necessary, and such other needs as may arise.

Section 3. Quarterly Assessment The quarterly assessment shall be as determined by the Declarant prior to the sale of the first Townhome unit. The quarterly assessment established above may be increased, effective January 1 of each calendar year, without vote of the membership, as described in Section 7 below.

Section 4. Working Capital Assessment At closing on the purchase of each Townhome unit, a "Working Capital" Assessment shall be collected from the buyer, payable to the Association, in an amount equal to two (2) months' assessment per Townhome unit. The amount of the Working Capital Assessment may be increased, without vote of the membership, as described in Section 7 below. The Working Capital Assessment may be used to pay operating expenses of the Association.

Section 5. Special Assessments for Capital Improvements In addition to the assessments authorized above, the Board of Directors of the Association may levy, in any assessment year, a special assessment applicable to that year only for the purposes of defraying, in whole, or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area including fixtures and personal property related thereto, provided that any such assessment shall have the Assent of not less than two-thirds (2/3) of the votes of each class of members who are voting in person or proxy at a meeting duly called for this purpose; provided however, Special Assessments required to cover the costs of repair and maintenance of the Disposal System (as shown in Exhibit C) require the Assent of two-thirds (2/3) of the votes of the Board of Directors of the Association.

Section 6. Insurance Assessment Without limitation, the Insurance Assessment shall include satisfaction of the Association's obligations regarding the Common Properties and Townhome Units to pay hazard and liability insurance. The Insurance Assessment shall not include the personal property of a Townhome Unit owner. Should the premium increase during a budget year, the Insurance Assessment will be increased accordingly.

Section 7. Assessment Rate All assessments shall be equal for all Townhome Units. Until such time as all Townhomes have been conveyed by the Declarant, the Declarant shall be responsible only for its pro-rata share of the maintenance and upkeep expenses of the Common Area as determined by the Board of Directors of the Association.

Section 8. Date of Commencement of Annual Assessments: Due Dates The quarterly assessments shall become effective as provided in Section 3 hereof. The first quarterly assessment for each Townhome conveyed by the

Declarant shall be adjusted according to the number of months remaining in the quarter. The Board of Directors of the Association shall establish the amount of the quarterly assessments against each Townhome at least thirty (30) days in advance of each assessment period (if no change is established, then the amount of the quarterly assessment remains the same as the previous quarter). Written notice of the quarterly assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors of the Association. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Townhome have been paid. A properly executed certificate from the Association as to the status of the assessment on a Townhome is binding upon the Association as of the date of its issuance.

Section 9. Effect of Nonpayment of Assessment; Remedies of the Association Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the initial rate of eighteen (18%) percent per annum. Said rate may be changed from time to time by the Board of Directors of the Association. In addition to such interest charge, the delinquent owner shall also pay such late charge as may have been theretofore established by the Board of Directors of the Association to defray the costs of late payment. The Association may, after 90 days, bring an action at law, in New Hanover County, North Carolina, against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, late payment fee, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Townhome.

Section 10. Determination of Annual Assessments. Notwithstanding any provision to the contrary contained herein, should the Association's Board of Directors determine that the Annual Assessment for the next succeeding assessment period will exceed the Annual Assessment for the current assessment period by more than ten percent (10%), then, in such event, such increase in the Annual Assessment shall be approved by a majority vote of the Owners voting in person or by proxy at a duly called meeting of the members of the Association, at which a quorum of members need not be present in person or by proxy, prior to its adoption by the Board of Directors of the Association.

Section 11. Quorum for any Action Authorized Under Sections 4, 5, and 6. The quorum required for any action authorized by Sections 3, 4, and 5 of this Article V shall be as follows:

At the first meeting called, as provided in Section 3, 4, and 5 of this Article V, the presence at the meeting of Members, or of proxies, entitled to cast makes ten percent (10%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another

meeting may be called, subject to the notice requirements set forth in Sections 3, 4, and 5, and the required quorum at any such subsequent meeting shall be two-thirds of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 12. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust on a mortgage or deed of trust on a Townhome or any mortgage or deed of trust of the Declarant. Sale or transfer of any Townhome shall not affect the assessment lien. However, the sale or transfer of any Townhome pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the line of such assessments as to payments which became due prior to such sale or transfer, provided, however, the Board of Directors of the Association may, in its sole discretion, determine such unpaid assessments to be an annual or special assessment, as applicable, collectible pro-rata from all owners including the foreclosure sale purchaser. Such prorated portions are payable by all Owners. No sale or transfer shall relieve such Townhome from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

Section 13. Surplus Funds "Surplus Funds" meaning all funds and other assets of the Association remaining after the payment of or the provision for Common Expenses, including reserves, shall be credited to the Townhome Unit Owners to reduce their future Common Expense liabilities.

## **ARTICLE VI EXTERIOR MAINTENANCE**

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Townhome, which is subject to assessment hereunder, as follows: Paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces and other exterior improvements. Such exterior maintenance shall not include glass surfaces and HVAC components. Each Owner shall be required to maintain his own glass surfaces, doors, windows, window screens, door and window frames, rear decks, roof skylights, and HVAC units. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Townhome at all reasonable times to perform maintenance as provided in this Article. In the event that the need for maintenance, repair or replacement is caused through the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance, replacement or repairs incurred by the Association shall be added to and become a part of the assessment to which such Townhome is subject.

## **ARTICLE VII INTERIOR MAINTENANCE**

Each Owner shall maintain, repair and replace at his expense, all interior portions of the improvements in his Townhome which shall need repair. Further, each Owner shall repair, maintain and replace, at his own expense when necessary, the glass surfaces, doors, windows, window screens, door and window frames, rear decks, roof skylights, landscaping inside a courtyard, and heating and air conditioning systems servicing his dwelling, whether located in his Townhome or in the Common Area adjacent to same.

## **ARTICLE VIII PARTY WALLS**

Section 1. General Rules of Law to Apply Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Townhomes shall constitute a party wall, and, to extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omission shall apply thereto.

Section 2. Sharing of Repair and Maintenance The costs of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Right to Contribution Runs With Land The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5. Arbitration In the event of any dispute arising concerning a party wall, or under the provision of this Article, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision shall be by majority of all of the arbitrators.

## **ARTICLE IX USE RESTRICTIONS**

Section 1. Land Use All Townhomes shall be used for residential purposes only and common recreational purposes auxiliary thereto and for no other purpose. Only one family may occupy a house as a principal residence at any one time. Declarant may maintain a sales office, models and construction office in one or more Townhomes until all units to be located on the Properties have been sold.

Section 2. Nuisance. No noxious or offensive activity shall be conducted in any house or in any dwelling, nor shall anything to be done thereon or therein, which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. Outside Furniture No furniture shall be permitted in the common areas. No furniture shall be permitted on the front porch of each unit except porch furniture and plants. Porch furniture shall be permitted in the courtyard of each unit, if constructed with courtyard.

Section 4. Animals No animals, livestock or poultry of any kind shall be kept or maintained in any Townhome, except that household pets such as dogs and cats may be kept or maintained provided they are not kept or maintained for commercial purposes. Further, all such pets must live indoors, and may be allowed outside any Townhome only when kept under control and personally escorted on a leash. The Board of Directors may require a bark control collar for any dog should its barking become a nuisance. No pit bulls, Doberman pinschers or rottweilers are allowed.

Section 5. Use of Common Area The Common Area shall not be used in any manner except as shall be approved or specifically permitted by the Association.

Section 6. Signs and Flags No signs or other advertising devices shall be displayed upon any Townhome which are visible from the exterior of the dwelling or on the Common Area, or in the facilities thereof, without the written permission of the Association. The Association's Board of Directors is authorized to develop a Sign Policy for the Association which may, but is not obligated to, determine a policy for "For Sale" and "For Rent" signs, including placing a size limit and specific sign criteria. Additionally, the Sign Policy may prohibit signs altogether. Declarant, however, may post temporary For Sale signs on the Properties until such time as all units owned by the Declarant have been sold. The rights of Owners and occupants to display on their Lots flags, political signs, signs and symbols of the kinds normally displayed in or outside of residences located in single-family residential neighborhoods in individually owned property shall not be abridged; provided, however, the Board may adopt reasonable time, place,

size and manner of display restrictions regulating flags, political signs, signs and symbols which are visible from outside the Lots.

Section 7. Religious and Holiday Displays. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in residences located in residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions regulating displays which are visible from outside the Lot.

Section 8. Garbage Disposal All garbage shall be stored in a manner determined by the Board of Directors. No Owner may change or supplement the garbage disposal facilities (if any) provided for such Owner's residence on the date of completion of construction thereof unless the Board of Directors of the Association shall first approve in writing the change or addition to the method of storage. It is provided, however, that if the public health authorities or other public agency shall require a specific method of garbage disposal, nothing herein contained shall prevent the compliance of Owners with obligatory public rules and regulations. Garbage containers are to be stored in a manner that they are not visible to adjacent owners or by the users of any street or parking areas.

Section 9. Satellite and Radio Receiving Stations No satellite and/or radio receiving stations or outside television or ham radios antennae shall be permitted, except as shall be approved or specifically permitted by the Board of Directors of the Association.

Section 10. Window Coverings. All drapes, curtains or other similar materials hung at any window, or in any manner so as to be visible from the outside of any building erected upon any lot, shall be of a white or neutral background or material, unless the Board of Directors approves another color.

Section 11. Regulations Reasonable regulations governing the use of the Common Area and external appearance of the Townhomes may be made and amended from time to time by the Board of Directors of the Association. Copies of such regulations and amendments thereto shall be furnished to each Homeowner by the Association upon request.

Section. 12. Hazardous Activities Nothing shall be done or kept in any Townhome or in the Common Area which will increase the rate of insurance on the Common Area or any other unit without the prior written consent of the Board of Directors of the Association. No Owners shall permit anything to be done or kept in his Townhome or in the Common Area which would result in the cancellation of insurance on any Townhome or any part of the Common Area, or which would be in violation of any law.

Section 13. Stormwater Regulations The Declarant and each Owner shall comply with all stormwater runoff and other governmental regulations as

required by NC State Stormwater Management Permit #SW 060725 ("the Permit"). Which states the maximum number of square feet of the property set forth in the attached Exhibit A shall be covered by structures or impervious materials (impervious materials include asphalt, gravel, concrete, brick, stone, slate or similar material but do not include wood decking or the water surface of swimming pools). Swales shall not be filled in, piped, or altered except as necessary to provide driveway crossing. Built-upon areas in excess of the permitted amount require a state stormwater management permit modification prior to construction. All permitted runoff from outparcels or future development shall be directed into the permitted stormwater control system. These connections to the stormwater control system shall be performed in a manner that maintains the integrity and performance of the system as permitted.

Declarant shall at its sole cost and expense initially construct all Stormwater Management Facilities required to be located upon the Property and any property annexed into the Property by Declarant to the standards required by the Permit. Upon completion of the initial construction of the Stormwater Management Facilities required by the applicable Permit for the Property and any additional property annexed by Declarant into the Property pursuant to this Declaration, Declarant shall transfer the applicable Permit and responsibilities under the Permit applicable to the Association and the Association shall accept such transfer of the Permit and responsibilities under the Permit. Transfers of any such Permit shall occur on or about the date the North Carolina Department of Environment and Natural Resources allows the transfer of the Permit to occur; or at a late date elected by the Declarant in Declarant's sole discretion.

Prior to any such transfer of the Permit, the Stormwater Management Facilities for the Property, including any property annexed by Declarant into the Property, shall be certified to the Association and the State of North Carolina, either by state inspection or by a licensed engineer, as being in compliance with the applicable Permit prior to such assignment or transfer.

Section 14. Temporary Structures No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot any time as a residence whether temporarily or permanently. Modular storage/moving systems may be utilized for a brief period while a member is moving into his residence, not to exceed twenty-four hours, unless approved by the Board of Directors. The Board of Directors is authorized to determine if a moving system remains at a Townhome Unit beyond a brief period of time.

Section 15. Recreational Vehicles No boat, motor boat, camper, trailer, motor or mobile home, or similar type vehicle shall be permitted to remain in any parking area or on a street at any time, unless by consent of the Association.

Section 16. Mailboxes Mail delivery within MAGNOLIA TRACE Townhomes will be provided at a central mailbox station located within the Properties.

## **ARTICLE X EASEMENTS**

The Association may reserve and grant easements for the installation and maintenance of driveways, walkways, parking areas, water lines, telephone and electric power lines, cable television lines, sanitary sewer and storm drainage facilities, and for other utility installations over the Properties as provided in Article III, Section 2 (c), of this instrument. Each Owner by his acceptance of a deed to a Townhome hereby grants to the Association an irrevocable power of attorney to execute such easements and rights of way.

Within any such easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation of sewage disposal facilities and utilities, or which may change the direction of flow of drainage channels in the easements or retard the flow of water through drainage channels in the easements. In addition, the Association shall have the continuing right and easement to maintain all sewer and water lines located in the Townhome site, including the right to go into Townhome units and disturb the structure and floors thereof in order to maintain those lines located within or under said units.

Every Townhome constructed which contributes to the support of an abutting Townhome shall be burdened with an easement of support for the benefit of such abutting Townhome. Further, all attachments to the exterior walls of a house which are a part thereof but which protrude beyond the delineated boundaries of the Townhome, and which were constructed in conformity with the plans and specifications, shall be deemed to be included within said delineated boundaries of said Townhome Unit, and there is hereby reserved an easement to permit the construction of and continued existence of any protruding attachment.

## **ARTICLE XI INSURANCE**

Section 1. Insurance on the Improvements. The Board of Directors shall obtain and maintain an extended coverage "all risk" fire and hazard insurance policy, including fire and lightning, vandalism and malicious mischief, insuring all Townhome units and all other improvements on the Common Areas (including without limitation the built structures, floor coverings, drywall and fixtures), in an amount equal to one hundred percent (100%) of the full replacement cost of such Townhome units and improvements, without deduction for depreciation

(exclusive of the land, excavations and other items normally excluded from such coverage). The particular types and amounts of such insurance shall be determined by the Board of Directors, provided such insurance is usual and customary for residential Townhome developments. PROVIDED, however, that the coverage shall exclude the heating and air conditioning units, and shall exclude the additional value of alterations and modifications to the units made by the Owners.

Each Owner shall bear the responsibility of insuring the exclusions described above, including his Townhome's heating and air conditioning units, and each Owner's personal property at the Townhome.

This Insurance provision may be modified or amended provided the approval of a majority of the owners is obtained and approval by 75% of the owners and holders of first deeds of trust on the Townhomes is obtained. Such approvals shall be in writing but need not be acknowledged and shall be attached to an amendment to this Declaration, which amendment shall be executed only by the Association and recorded in the New Hanover County Public Registry.

Section 2. General Liability Insurance The Board of Directors shall also obtain and maintain public liability insurance in such limits as the Board of Directors may determine from time to time, covering each member of the Board of Directors, each officer of the Association, the Association and each Owner; such public liability coverage shall also cover cross-liability claims of one insured against another

Section 3. Other Insurance. The Board of Directors may obtain and maintain such other insurance as the Board of Directors may determine is necessary for the protection of the Association, its Directors, Officers and Members.

Section 4. Insurance Assessments Insurance assessments shall be collected and paid as specified in Article V, Section 6. Without limitation, the Insurance Assessment shall include satisfaction of the Association's obligations regarding the Common Properties and Townhome Units to pay hazard and liability insurance. The Insurance Assessment shall not include the personal property of a Townhome Unit owner. Should the premium increase during a budget year, the Insurance Assessment will be increased accordingly.

Section 5. Insurance Deductible. In the event of a loss or damage to the Common Elements, which may be covered by any insurance maintained by the Association, the deductible shall be paid as a Common Expense. In the event of a loss or damage to any part of a Unit or Units which a Unit Owner(s) is obligated to maintain, repair or replace which may be covered by any insurance maintained by the Association, the deductible shall be paid by the Unit Owner(s) affected. Whenever a loss or damage occurs which may be covered by any insurance