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DECLARATION OF

COVENANTS, RESTRICTIONS AND EASEMENTS

FOR

MIDTOWNE AT MERIDIAN

DURHAM COUNTY, NORTH CAROLINA

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DECLARATION OF
COVENANTS, RESTRICTIONS AND EASEMENTS
FOR MIDTOWNE AT MERIDIAN
DURHAM COUNTY, NORTH CAROLINA

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS is made By HHHunt Meridian Durham, LLC, a North Carolina limited liability company (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of all that tract or parcel of land lying and being in Durham County, North Carolina, as shown on the legal description attached hereto as Exhibit "A", incorporated herein (the "Property"), which Property is subject to the Declaration of Covenants, Conditions, Restrictions and Easements of the Meridian Business Campus recorded in Book 1235, Page 404, in the Registry (defined below), as assigned and assumed in Book 2285, Page 810 in the Registry, as amended by the Release recorded in the Release recorded in Book 1420, Page 672 in the Registry, as amended by that certain First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements of the Meridian Business Campus dated October 5, 1999 and recorded in Book 2718, Page 948 in the Registry, as further amended by that certain Second Amendment to Declaration of Covenants, Conditions, Restrictions and Easements of the Meridian Business Campus dated April 17, 2000 and recorded in Book 2816, Page 959 in the Registry, and as further amended by that certain Third Amendment to Declaration of Covenants, Conditions, Restrictions and Easements of the Meridian Business Campus dated September 14, 2012 and recorded in Book 7072, Page 180 in the Registry, Assignment and Assumption of Declarant Rights and Appointment of Successor Declarant for Meridian Business Campus recorded in Book 5702, Page 15 in the Registry and Assignment and Assumption of Declarant Rights and Appointment of successor Declarant for Meridian Business Campus recorded in Book 6754, Page 703 in the Registry, and Assignment and Assumption of Declarant Rights and Appointment of Successor Declarant for Meridian Business Campus recorded in Book 7552, Page 837 in the Registry, and as thereafter as subsequently amended and assigned (the "Master Declaration"); and

WHEREAS, pursuant to the Master Declaration, the Property is the Townhouse Site (as defined in the Master Declaration); and

WHEREAS, subject to and in addition to but not in lieu of the Master Declaration, Declarant intends to impose on the Property mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Property and to establish a procedure for the overall development, administration, maintenance and preservation of the Property; and

WHEREAS, in furtherance of such plan, it is desirable to create Midtowne at Meridian Homeowners Association, Inc. (the "Association") to own, operate, maintain and/or manage, as applicable, the Area of Common Responsibility (as defined below) and to administer and enforce the covenants and restrictions imposed hereby; and

WHEREAS, it is intended that every owner of any of the Units automatically, and by reason of such ownership in this Declaration, become a Member of the Association and be subject to its rules and regulations and the assessments and charges made by the Association;

NOW THEREFORE, Declarant does hereby submit the Property to the provisions of this Declaration. This document establishes a mandatory membership homeowners association pursuant to the provisions of the North Carolina Planned Community Act, N.C. Gen. Stat. §§ 47F-1-101, *et seq.*

**ARTICLE I.
DEFINITIONS**

As used in this Declaration, the following terms shall have the meanings ascribed to them in this Article, such definitions being cumulative of those set forth in the recitals and elsewhere in this Declaration.

"Annual Assessment" shall have the meaning specified in Article VI, entitled "ASSESSMENTS", and shall constitute the assessments which, pursuant to the provisions of such Article VI, shall be levied by the Association against all Units each year for the purpose of raising the funds necessary to pay the "Annual Expenses" (as that term is defined in such Article VI).

"Areas of Common Responsibility" shall mean the areas which by the terms of this Declaration or by contract or agreement with any other Person become the responsibility of the Association.

"Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as the same may be amended from time to time.

"Association" shall mean Midtowne at Meridian Homeowners Association, Inc., a North Carolina non-profit corporation. Pursuant to the Master Declaration, the Association is the Townhouse Association and is the "Owner" (as defined in the Master Declaration) of the entire Property (being the Townhouse Site) for all purposes, as provided in the Master Declaration.

"Board of Directors" shall mean the body responsible for the administration of the Association, as provided in the Bylaws.

"Bylaws" shall mean the Bylaws of the Association, as the same may be amended from time to time.

"Builder" means any Person who purchases one or more Units from the Declarant for the purpose of constructing improvements for later sale to consumers or who purchases units from others for such purpose and is designated as "Builder" by Declarant. Any Person occupying or leasing a Unit for residential purposes shall cease to be considered a Builder with respect to such Unit immediately upon occupancy of the Unit for residential purposes, notwithstanding that such Person originally purchased the Unit for the purpose of constructing improvements for later sale to consumers. ~~A Builder leasing from an individual purchaser a completed Unit for use as a model or sales office pursuant to this Declaration shall be permitted and shall not result in a violation of the residential use restriction of Article X by the Owner-lessor and the required occupancy for residential purposes.~~

"Declarant" shall mean HHHunt Meridian Durham, LLC, a North Carolina limited liability company, and shall include any successor or assign who shall acquire any portion of the Property for the purpose of development and/or sale and who is designated as Declarant in a recorded instrument executed by the immediately preceding Declarant; provided, however, that there shall be only one "Declarant" hereunder at any one time.

"Declaration" shall mean this Declaration of Covenants, Restrictions and Easements, as the same may be hereafter amended in accordance with the terms hereof. The Declaration is the Townhouse Declaration pursuant to Section 1.36 of the Master Declaration and is subject and subordinate to the Master Declaration.

"Development Period" shall mean the period of time during which Declarant owns any property that is subject to this Declaration. Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Development Period by recording a written instrument with the Registry.

"Existing Storm Water Agreement" means that certain "Storm Water Facility Agreement and Covenant" entered into between Declarant and the City as recorded in Book 7649, Page 286 of the Public Records.

"Improved Unit" shall mean a Unit (i) upon which there is located a structure for which a certificate of occupancy has been issued by the applicable government authority, and (ii) which has been sold to a Person who is not Declarant.

"Master Association" shall mean the Meridian Business Campus Owners Association, Inc., a North Carolina non-profit corporation, its successors and assigns. The Master Association is the "Owner's Association" under the Master Declaration.

"Master Declarant" shall mean the Declarant under the Master Declaration.

"Master Declaration" is defined in the Recitals.

"Member" shall mean a Person subject to membership in the Association pursuant to Article IV entitled "THE ASSOCIATION."

"Mortgage" shall mean a deed or other document by means of which title to any Unit is conveyed or encumbered to secure a debt. The term **"Mortgagee"** shall refer to a beneficiary or holder of a Mortgage.

"Owner" shall mean any Person who is a record owner by purchase, transfer, assignment or foreclosure of a fee or undivided fee interest in a Unit; provided, however, that any Person who holds such interest merely as security for the performance of an obligation shall not be an Owner. Under the Master Declaration, an Owner is a Townhouse Unit Owner and an Occupant (and not an Owner) under the Master Declaration.

"Person" shall mean a natural person, corporation, trust, partnership or any other legal entity.

"Plats" shall mean all plats for any portion of the Property, and any amendments to such Plats, which are hereafter recorded in the Registry' plat book records.

"Pond" means a portion of the Project Drainage System shown on the Final Plat as a delineated parcel of real property that contains all or any portion of a stormwater constructed wetland, lake, pond, lagoon, retention or detention area, or similar body of water.

"Property" shall have the meaning ascribed to it hereinabove. The Property is the Townhouse Site under the Master Declaration and is a Commercial Site for purposes of assessments under the Master Declaration.

"Registry" shall mean the Register of Deeds for Durham County, North Carolina.

"Supplemental Declaration" shall mean an instrument filed with the Registry which imposes additional restrictions and/or obligations on the land described in such instrument.

"Unit" shall mean each portion of the Property that may be independently owned and conveyed and which is intended for development, use and occupancy as a residence for a single family, as shown and indicated as a "Unit" or a "Lot" on any of the Plats which are hereafter recorded. If the side boundary of a Unit abuts the side boundary of another Unit, the side boundary shall be a line consistent with and along the center of the firewall(s) separating such Unit from the abutting Unit. Otherwise the Unit boundaries shall be as shown on the recorded Plats. If any discrepancy between the boundaries of a Unit, as described herein, and the boundaries of such Unit when shown on the recorded Plats, the description of the boundaries of the Unit set forth herein shall control. All of the area within the boundaries of each of the Unit, as herein described, and as shown and depicted on the recorded Plats, shall for all purposes constitute real property which may be owned in fee simple, subject to the terms, provisions, liens, charges, covenants, easements and restrictions of this Declaration.

"Unimproved Unit" shall mean any Unit that is not an Improved Unit.

ARTICLE II. PROPERTY SUBMITTED TO THIS DECLARATION

Section 1. Units Hereby Subjected to this Declaration. Declarant, for itself and its successors and assigns, does hereby submit the Property and the Units to this Declaration. The Property shall hereafter be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration, including, but not limited to, the lien provisions set forth herein. All of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to the Units shall be a permanent charge thereon, and shall run with the Units.

Section 2. All Units Bear the Burdens and Enjoy the Benefits of this Declaration. Every Owner, by taking record title to a Unit, agrees to all of the terms and provisions of this Declaration. Each of the Units is subject to all burdens, and enjoys all benefits, made applicable hereunder.

Section 3. Reserved.

Section 4. Withdrawal of Property Declarant reserves the right to amend this Declaration during the Development Period for the purpose of removing any portion of the Property from the coverage of this Declaration, provided such withdrawal is not contrary to the overall, uniform scheme of development for the Property and is not contrary to the planned residential development requirements of the zoning ordinance in effect for the Property. This provision includes Declarant's right to deed over property to any governmental entity as required or deemed necessary in Declarant's discretion. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if same is not Declarant, and the Master Declarant.

Section 5. Submission to the Master Declaration .

(a) The Property is subject to the Master Declaration. If there is a conflict between any this Declaration and the Master Declaration, the terms of the Master Declaration will control. For purposes of this paragraph, restrictions in this Declaration that are greater than the restrictions contained in the Master Declaration will not be characterized as being in conflict. The Master Association may, but shall not be required to, enforce any covenants or restrictions in this Declaration applicable to the Property.

(b) The Association is the Townhouse Association under the Master Declaration and, accordingly is the "Owner" for all purposes under the Master Declaration with respect to the Property and the "Member" of the Master Association with respect to the Property.

(c) The Property shall be treated as and deemed a single Site under the Master Declaration (notwithstanding that the Units will be individually owned and conveyed) for all purposes under the Master Declaration, including membership and voting rights and assessments, all of which such rights and obligations shall be held by and/or the responsibility of the Association. The Association shall be treated as a single Member/Owner as defined in and for all purposes under the Master Association.

~~(d) Pursuant to the Master Declaration, each Owner is an Occupant (as defined in the Master Declaration) under the Master Declaration and bound by the terms of the Master Declaration.~~

(e) Notwithstanding anything in Section 7.02 of the Master Declaration to the contrary, nineteen (19) votes are to be allocated to the entire Property (the "Townhouse Site Votes"). The Townhouse Site Votes must be exercised in whole, and not in part, and must be exercised by the Townhouse Associate Delegate, it being understood and acknowledged that Owners under this Declaration shall have no separate, individual vote, but that all such Owners shall have their votes pooled and exercised, as a block, by the Townhouse Association Delegate. "Townhouse Association Delegate" means a duly authorized officer of the Association. The Association shall give written notice to the Master Declarant and the Master Association of the name and title of the officer so authorized and the Declarant and the Master Association shall be entitled to rely on such notice. Each Owner under this Declaration, by accepting title to a Unit, grants to the Townhouse Association Delegate an irrevocable proxy coupled with an interest to act on such Owner's behalf for all matters under the Master Declaration, the articles of incorporation of the Master Association, the bylaws of the Master Association and the Master Association.

Section 6. Project Drainage System. The drainage system that serves solely the Property (the "Project Drainage System") and its location are as follows:

- i. one (1) wet detention Pond (WP) with a design permanent pool area of 10,436 square feet and a 10-year design storm surface area of 19,143 square feet. It is designed to provide 1-, 2-, 10- and 100-year peak flow attenuation, TSS removal and nutrient removal; and
- ii. one (1) level spreader-engineered filter tips (LS) designed with a 6-foot long level spreader and a 30-foot engineered filter strip.

The Project Drainage System shall be kept, repaired, replaced, and maintained by the Association for the sole benefit of the Association. The Association shall use and maintain those portions of the Project Drainage System owned or controlled by the Association substantially in the same fashion as constructed by Declarant and in accordance with the applicable requirements of the City and other applicable governmental authorities.

The Pond is a portion of the Project Drainage System and is subject to the provisions of the Existing Storm Water Agreement. This Declaration shall convey the Project Drainage System, specifically including the Pond, to the Association following Declarant's completion of all Improvements required to be made to the Project Drainage

System by the City, and the Association shall be obligated to accept such conveyance and the deed by which Declarant conveys the Project Drainage System to the Association. Upon the conveyance of the Project Drainage System to the Association, the Association shall be obligated to maintain the Project Drainage System in accordance with all applicable requirements of the City and other applicable governmental authorities having jurisdiction over the Project Drainage System, including the applicable maintenance requirements specified in the Existing Storm Water Agreement, which shall be set forth in a new agreement (the "Association Storm Water Agreement") to be entered into between the Association and the City.

Following Declarant's conveyance of the Project Drainage System to the Association, the Association shall enter into the Association Storm Water Agreement which will replace the Existing Storm Water Agreement, in the form approved and in use by the City at the time. Declarant shall deliver such agreement to the City as required by paragraph 3 (a) of the Existing Storm Water Agreement. If required by the City, the Association shall take the necessary actions reasonably required to allow the City to release any bond or other security posted by Declarant in connection with the Existing Storm Water Agreement, provided however, that the Association shall have no obligation under the Association Storm Water Agreement or otherwise to pay any "stormwater replacement fee" which may be required by the City either when Declarant transfers the Project Drainage System to the Association or prior to the issuance of a certain number of certificates of occupancy for the Units in the Project.

In accordance with City regulations, the Association shall cause the Project Drainage System to be inspected i) annually; and, ii) after major storm events that cause visual damage to the Facility; and iii) upon notification from the City to inspect. The inspection shall be performed by a registered North Carolina Professional Engineer or a North Carolina Registered Landscape Architect certified by the City who shall document those things mandated under City regulations. The inspection shall occur annually during the month in which the Project Drainage System as-built certification was accepted by the City, which month may be determined through contact with the City of Durham Department of Public Works, Stormwater Division. The inspection shall be reported to the City as further described below.

The City has the right to inspect the Project Drainage System and to notify the responsible party (the fee simple owner of the Project Drainage System at the time) of any maintenance or repair that the City reasonably determines to be necessary or required for the Project Drainage System. If the responsible party fails to perform the required maintenance or work within 30 days following the responsible party's receipt of the City's notice of the required maintenance or work, the City has the right to perform the work and recover the City's costs for doing the work from the responsible party. If the Association is the responsible party, and if the Board determines that there is a lack or shortage of available funds to cover the cost to repay the City, the Board shall impose a Special Assessment pursuant to Article VI. As allowed under N.C.G.S. §47F, or successor statutes, all assessment remaining unpaid for 30 days or longer shall constitute a lien on the Lot. Such lien and costs of collection may be filed and foreclosed on by the Association.

The dues of the Association shall include amounts for upkeep and reconstruction of the Project Drainage System which shall be included in dues charged to Units or members from the point that Units or members are charged dues for other common purposes. The Association shall maintain two (2) separate funds in its budget for the Project Drainage System. The first, the "Inspection and Maintenance Fund," shall be for routine inspection and maintenance expenditures and shall be used for annual inspections, maintenance, and minor repairs. The funds for this purpose may be maintained as part of the Association's general account. The second fund, the "Major Reconstruction Fund," shall be a separate, increasing reserve fund that will build over time and provide money for major repairs to and eventual reconstruction of the Project Drainage System. The Major Reconstruction Fund shall be maintained in an account that is separate account from the Association's general account as described below. At a minimum, the Association shall, annually, earmark \$4,197.00 [WP: \$2,899.00; LS: \$1,298.00] from its collected dues for the Inspection and Maintenance Fund and \$852.00 [WP: \$686.00; LS \$166.00] for the Major Reconstruction Fund. These minimum amounts shall be increased annually by 3% per year over the prior year's amount. The Association may set a higher amount in its discretion, or if directed by Durham Director of Public Works after an examination of the Project Drainage System. The Association shall set dues at a sufficient amount to fund each of the two line items in addition to the Association's other obligations. The Association may compel payment of dues through all remedies provided in this Declaration or otherwise available under law.

Notwithstanding any contrary provisions of the covenants of which this Section is a part, to the extent not prohibited by law, the inspection, maintenance, repair, and replacement/reconstruction of the Project Drainage System shall receive the highest priority (excluding taxes and assessments and other statutorily required

expenditures) of all Association expenditures.

The Association shall maintain the Major Reconstruction Fund (the "Fund") for the Project Drainage System in an account separate from the Association's general account. The Association shall use the Fund only for major repairs and reconstruction of the Project Drainage System. No withdrawal shall be made from this fund unless the withdrawal is approved by two Association officials who shall execute any documents allowing such withdrawal. Prior to withdrawing funds from this account, the Association shall (i) obtain a written report from an engineer approved in accordance with City regulations regarding repairs or reconstruction needed and approximate cost of such repair or reconstruction; and (ii) submit such report to the Director of the City's Department of Public Works, and notify the Director of the repairs or reconstruction to be undertaken on the Project Drainage System, the proposed date, and the amount to be withdrawn from the Fund. In the event of an emergency, withdrawal and expenditure of funds may be made after telephone notification to the Stormwater Services Division of the Department.

The Association shall provide to the City annual reports in substance and form as set forth in City regulations. This annual report shall be signed by an officer of the Association, who shall attest as to the accuracy of the information in such report. If prepared by a professional management company hired to manage the Association's affairs, the report shall so indicate. The Officer's signature and attestation shall be notarized. At a minimum each report shall include:

- i. The annual inspections report described in in this Section 6;
- ii. A bank or account statement showing the existence of the separate Major Reconstruction Fund described in this Section 6 above and the balance in such fund as of the time of submission of the report;
- iii. A description of repairs exceeding normal maintenance that have been performed on the Project Drainage System in the past year, and the cost of such repairs; and
- iv. ~~The amount of Association dues being set aside for the current year for each of the two stormwater funds (the Inspection and Maintenance Fund and the Major Reconstruction Fund).~~

To the extent not prohibited by law, the Project Drainage System shall remain the property of the Association and may not be conveyed by the Association. In the event the Association ceases to exist or is unable to perform its obligations under this Agreement, all Owners as defined in the Stormwater Agreement referenced above, excluding the Lots owned by the Association, shall be jointly and severally liable to fulfill the Association's obligations under this Agreement. Such Owners shall have the right of contribution from other owners with each Unit's pro rata share being calculated as Owner's proportional obligations are otherwise defined in this Declaration. The City may also exercise the rights described in Section 7 of the recorded Stormwater Agreement and other remedies provided by law.

In addition to rights granted to the City by ordinance or otherwise, the City shall have the following rights, generally summarized below, and more explicitly set forth in the Stormwater Agreement referenced above:

- a. Direct the Association in matters regarding the inspection, maintenance, repair, and /or reconstruction of the Project Drainage System.
- b. If the Association does not perform the work required by ordinance, by these covenants, and by the Stormwater Agreement referenced above, do such work itself, upon 30 days' written notice to the Association.
- c. Access the Project Drainage System for inspection, maintenance, and repair, crossing as necessary the lot(s) on which the Project Drainage System are located and all other private and public easements that exist within the Property subject to these covenants.
- d. Require reimbursement by the Association of the City's costs in inspecting, maintaining, repairing, or reconstructing the Project Drainage System, as provided in the Stormwater Agreement referenced above.
- e. Enforce any debts owed by the Association as described in the Stormwater Agreement referenced above against Owners if such debts are not fully paid by the Association. The debt may be

allocated to Owners as provided in the other sections of this Declaration, and may be made a lien on each owner's property, may be added to each owner's utility bills, and may result in foreclosure, as provided in Section 7 of the Stormwater Agreement referenced above.

To the extent not prohibited by law, the Association shall not enter into voluntary dissolution unless the Project Drainage System is transferred to a person who has been approved by the City and has executed a Stormwater Agreement with the City assuming the obligations of the Association. Under the Stormwater Agreement referenced above, individual Lots and Owners continue to be liable for the Project Drainage System in the event the Association is dissolved without a new Stormwater Agreement between the City and a responsible party that is assuming the Association's obligations.

Without the prior written consent of the City, which may be given by the Durham City Manager, and notwithstanding any other provisions of this Declaration, the Association may not amend or delete this Section 6 with the exception of supplementing its provisions in a more detailed manner to better describe members' or Owners' obligations regarding each other.

The Stormwater Agreement referenced above supersedes any limiting provisions contained elsewhere in other provisions of this Declaration. However, such provisions may supplement the obligations of the Association as set forth in that Agreement, and/or the obligations of and remedies against individual Owners or members bound by this Declaration.

ARTICLE III EASEMENTS OVER AND AGREEMENTS REGARDING THE PROPERTY

Section 1. Easements Over Units. The Units shall be subject to, and Declarant does hereby grant, the following non-exclusive perpetual and temporary easements for the enjoyment of Declarant, the Association, any Builders and subcontractors authorized by Declarant, the Members, the Owners, and the successors-in-title of each:

(a) **Easements Shown on Plats.** Each Unit shall be subject to all easements, borders, buffers and the like which are shown and depicted on the Plats as affecting and burdening such Unit.

(b) **Entry.** Each Unit shall be subject to an easement for the entry by the authorized agents and representatives of the Association to go upon such Unit under such circumstances and for such purposes as are described elsewhere in this Declaration

(c) **Encroachments and Overhangs.** Each Unit shall have a three (3) foot easement as measured from any point on the common boundary between such Unit and any adjoining Unit, or between such Unit and adjacent Common Areas, for encroachments and overhangs due to the placement or settling of the improvements constructed, reconstructed or altered thereon; unless such encroachment or overhang was due to the willful act of an Owner or the Association.

(d) **Maintenance.** Each Unit shall be subject to a perpetual easement in favor of the Association and its contractors for such maintenance of the Units by the Association as is provided for in Article VII entitled "MAINTENANCE OF TOWNHOMES" herein. There is further reserved for the benefit of each Unit a reciprocal appurtenant easement between all adjacent Units, for the purpose of maintaining, repairing or replacing the improvements located on each such Unit. All such maintenance shall be performed with a minimum of interference to the quiet enjoyment of the Owner of the adjacent Unit. Except in emergencies, entry onto a Unit shall occur only after providing the Owner of such Unit not less than forty-eight (48) hours advance notice and shall occur only during reasonable hours. Each Owner and the Association shall cooperate with each other Owner and/or occupant for purposes of exercising these easement rights and these easements shall be exercised only for such period of time as is reasonably necessary in order to complete the maintenance or repair. The Owner or Association exercising these easement rights shall pursue such work promptly and diligently and shall promptly repair any damage that arises out of such maintenance or repair work to the Unit(s) over which this easement is exercised.

(e) **Slope Control.** Each Unit shall be subject to an easement for slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity that might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow.

(f) Surface Water Drainage. Each Unit shall be subject to a perpetual easement in favor of the Association and all other Units for the drainage of surface waters over, under, or across such Unit, including any runoff or carryover of water from one Unit to another, provided that such cross Unit drainage condition was created by Declarant or by a Builder authorized by Declarant.

(g) Utilities. Each Unit shall be subject to a perpetual easement in favor of Declarant, the Association, and authorized Builders and subcontractors, as well as any public utility company, water main, water services, sewer services or cable company, for the erection, installation, construction and maintenance, repair and replacement of wires, lines, conduits, pipes, and attachments both above and below ground or attached to any building wall in connection with the transmission of electricity, gas, water, telephone, community antennae or satellite dish, television cables and other utilities. The easement rights to which the Units shall be subject shall include the right of contractors engaged by the Association to enter upon said Units from time to time as necessary in order to perform repair and maintenance work. When an Owner requests that an easement arising under this section be relocated, agrees to bear the expense of relocating the easement, and when the easement can be accomplished without diminishing the quality or quantity of utility service, without increasing the cost of delivering that service and without an interruption in that service of more than eight (8) hours, then the Person that benefits from the easement must agree to the requested relocation.

(h) Easements for Roof Drainage System. There shall be a perpetual nonexclusive easement in favor of the Association, its agents and assigns, to enter upon any Unit or any other portion of the Property if and to the extent necessary for the Association, its officers, agents, employees, and independent contractors, to perform and satisfy all duties and obligations of the Association with respect to the maintenance of any system for the collection, conveyance and management of water falling upon the roof of each Improved Unit.

Section 2. Easements Over Association Property. All Common Areas shall be subject to, and Declarant and the Association do hereby grant, the following easements:

(a) Utility and Drainage. An easement across, in, under, over and through the Common Areas for purposes of the construction, installation, repair, maintenance and use of all utility and drainage facilities serving any portion of the Property. Any easement reserved pursuant to the provisions of this section will be located so as not to interfere unreasonably with the use of any Common Area and, to the extent practicable, along the boundaries of the Common Area. Without limiting the generality of the foregoing, no utility easement may be installed under an existing structure or so close to a structure as to have a material adverse effect on the structure. When the Declarant or Association requests that an easement arising under this section be relocated, agrees to bear the expense of relocating the easement, and when the easement can be accomplished without diminishing the quality or quantity of utility service, without increasing the cost of delivering that service and without an interruption in that service of more than eight (8) hours, then the Person that benefits from the easement must agree to the requested relocation.

(b) Declarant's Development Easement. An easement in favor of Declarant for the exclusive use of such portions of the Common Areas as may be reasonably desirable, convenient or incidental to the construction and installation of improvements on, and the sale of, any Units, including, but not limited to, sales and business offices, storage areas, construction yards and signs. Such easements may be exercised by any and all persons who the Declarant authorizes to exercise the same, including, without limitation, real estate sales agents and brokers and Builders, and their subcontractors, of improvements upon the Units, irrespective of whether such persons are affiliated with the Declarant. Such easements shall exist notwithstanding any provision of this Declaration which might be construed to the contrary, but shall terminate thirty days after the date that all of the Units are Improved Units. Such easements shall and do exist without affecting the obligation of the Owner of any Unit to pay assessments or charges coming due during such period of time as portions of the Common Areas shall be used by authorized persons pursuant to the exercise of the easements herein stated.

(c) Declarant's Activity Easement. Notwithstanding any provision contained in this Declaration, the Bylaws, the Articles of Incorporation, use restrictions, rules and regulations, or any amendments thereto, during the Development Period, it shall be expressly permissible for Declarant to maintain and carry on, upon such portion of the Property as Declarant may deem necessary, such facilities and activities as may reasonably be required by the Declarant, including but without limitation, the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Property; the right to tie into any portion of the Property with driveways, parking, areas and walkways; the right to tie into and/or maintain and repair any device (without a tap-on or any other fee for doing so),

replace, relocate, maintain, and repair any device which provides utility or similar service including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under, or over the Property; the right to carry on sales and promotional activities on the Property; and the right to construct and operate business offices, signs, construction trailers, and model residences.

Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, each Builder and its agents, employees, successors, and assigns, is permitted to maintain and carry on any Unit owned by such Builder such facilities and activities as may be reasonably required, convenient, or incidental to the development, construction, completion, improvement, and sale of the Builder's Unit(s), including, without limitation, the installation and operation of development, sales and construction trailers and offices, signs and models upon any Unit(s) owned by the Builder. The rights under this Section 2(c) to maintain and carry on such facilities and activities will include specifically the right to use a Unit as a model and as offices for the sale or lease of Units and for related activities.

ARTICLE IV. THE ASSOCIATION

Section 1. The Association. Prior to the date this Declaration has been recorded with the Registry, Declarant has caused the Association to be formed, and the Association does now exist, under its Articles of Incorporation and Bylaws.

The Association is and shall be responsible for the maintenance of the Area of Common Responsibility, the enforcement of the covenants and restrictions set forth in this Declaration, and the performance of such other duties and services as are required of the Association hereunder or as the Board of Directors shall deem to be in the best interests of the Members of the Association.

Section 2. Membership. Every Owner is and shall be a Member of the Association. In no event shall such membership be severed from the Ownership of such Unit.

Section 3. Classes of Membership; Voting Rights. The Association shall have two classes of voting membership: Class A and Class B.

(a) Class A. The Class A Members shall be all those Persons holding an interest required for membership in the Association, as specified in of this Article IV, except for those Persons who are Class B Members. Until such time as the Class A Members shall be entitled to full voting privileges, as hereinafter specified, the Class A membership shall be a non-voting membership except as to such matters and in such events as are hereinafter specified.

The Class A Members shall be entitled to full voting privileges on the earlier of the following dates to occur: (i) the date which the Declarant may designate by notice in writing delivered to the Association, or (ii) the termination of the Development Period. Until the earliest of these dates occurs, the Class A Members shall be entitled to vote only on matters for which it is herein specifically provided, or for which it is provided by law, that approval of each and every class of membership of the Association is required. When entitled to vote, Class A Members shall be entitled to cast one (1) vote for each Lot in which they hold an interest required for membership.

(b) Class B. Declarant shall be the only Class B Member. Class B membership shall be a full voting membership and, during its existence, the Class B Members shall be entitled to vote on all matters and in all events. At such time as the Class A Members shall be entitled to full voting privileges, as provided in paragraph (a) hereof, the Class B membership shall automatically terminate and cease to exist, and the Class B Member shall be and become a Class A Member insofar as it may then hold any interest required for membership.

From and after the date at which the Class B membership automatically terminates and ceases to exist, such membership shall not be renewed or reinstated.

Section 4. Suspension of Membership Rights. The membership rights of any Member of the Association, including the right to vote, may be suspended by the Board of Directors pursuant to the authority granted in the Bylaws. Any such suspension shall not affect such Member's obligation to pay assessments coming due during the

period of such suspension and shall not affect the permanent charge and lien on the Member's Unit in favor of the Association.

Section 5. Meetings of the Membership. All matters concerning the meetings of Members of the Association, including the time at which and the manner in which notice of any said meeting shall be given to Members, the quorum required for the transaction of business at any meeting, and the vote required on any matter, shall be as specified in this Declaration, or in the Articles of Incorporation or the Bylaws, or by law.

Section 6. Association Acts Through Its Board of Directors. Whenever approval of, or action or inaction by, the Association is referred to or called for in this Declaration, such action, inaction or approval shall be by the Board of Directors of the Association, unless it is specifically stated in this Declaration, the Articles of Incorporation or the Bylaws with respect to such action, inaction or approval that the Members of the Association, or the Owners of Lots, must vote. No member of the Board of Directors of the Association or any officer of the Association (including, without limitation, any such individual who shall have been elected by a vote of the Class B Member) shall be personally liable to any owner of any Unit for any mistake of judgment or for any other act or omission of any nature whatsoever, except for any acts or omissions found by a court of competent jurisdiction to constitute gross negligence or fraud.

Section 7. Professional Management. The Association may, but shall not be obligated to, obtain and pay for the services of any Person or other entity to manage the affairs of the Association, or any part thereof, as the Board of Directors deems to be in the best interests of the Association.

ARTICLE V. ASSOCIATION PROPERTY

Section 1. Common Areas and Association Property. The Declarant shall have the right to transfer and convey to the Association any portion of the Property. All portions of the Property which the Declarant transfers to the Association shall thereafter constitute Common Areas. Said right may be exercised by the Declarant any time, and from time to time, prior to twenty years from the date hereof.

The Association will govern use of the Common Areas and may promulgate rules and regulations related to such use. The Declarant or the Association may authorize persons who are not Owners to use the Common Areas or portions of the Common Areas.

The Common Areas shall be conveyed to the Association by special warranty deed free of debt encumbrance, and subject to easements and encumbrances recorded with the Registry, irrespective of whether the deed of conveyance shall make a specific reference to such rights and easements. COMMON AREAS SHALL BE CONVEYED TO THE ASSOCIATION WITHOUT WARRANTY - "AS IS" AND "WHERE IS".

Section 2. Limited Common Areas. Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use of primary benefit of Owners. By way of illustration and not limitation, Limited Common Areas may include townhome patio areas, recreational facilities, landscaped areas, and other portions of the Common Area. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be an Association expense allocated, in any reasonable manner established by the Association, among the Owners.

Limited Common Areas may be designated as such in the deed conveying such area to the Association or on the Plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Units, provided that any assignment that would have a material adverse effect on Units owned by a Builder or Units a Builder is under contract to purchase from Declarant will require the consent of such Builder, which consent shall not be unreasonably conditioned, delayed or denied.

After recording the initial deed conveying such area to the Association or the Plat relating to such Common Area, a portion of the Common Area may be assigned as Limited Common Area and Limited Common Area may be reassigned upon approval of the Declarant during the Development Period and thereafter by the Board of Directors and the vote of Voting Members representing a majority of the total votes in the Association. As long as Declarant

owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Article II, any such assignment or reassignment shall also require Declarant's written consent.

Section 3. Resource Conservation Areas. The Declarant or the Association may delineate portions of the Common Areas as Resource Conservation Areas. Use of portions of the Common Areas designated as Resource Conservation Areas will be limited or prohibited as provided in the delineation.

A failure of Declarant or the Association to designate a portion of the Common Areas as a Resource Conservation Area will not relieve any Owner of the obligation to comply with all laws, rules, and permits.

Section 4. Member's Rights in Association Property. Every Owner of any Unit shall have a non-exclusive right and easement of enjoyment and use in and to the Common Areas and such right and easement shall be appurtenant to, and shall pass with, the title to the Unit(s) owned by such Owner. Such right and easement of enjoyment and use are and shall be subject to the limitations and easements which are described in this Article V and to the right of the Association to promulgate reasonable rules and regulations regarding the use of Common Areas, and the right of the Association, to suspend the enjoyment rights of the owner of any Unit during any period in which any assessment which is due to the Association from such Owner remains unpaid, and such period as the Board of Directors may consider appropriate for any infraction of the terms of this Declaration or the Associations' published rules and regulations. In addition, the Board of Directors may permit other persons who are not residents of any Units to use the Common Areas upon such terms and conditions, and for the payment of such fees, as shall be determined by the Board of Directors.

Section 5. Condemnation. If any part of the Common Areas are either: (a) taken by any authority having the power of condemnation or eminent domain, or (b) conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of at least 80% of the Class A votes (and, if during the Development Period, the written consent of Declarant), then the Association shall restore or replace the improvements on the remaining land included in the Common Areas to the extent available unless, within 60 days after such taking, at least 67% of the Class A votes (and Declarant, if during the Development Period) otherwise agree. If the taking or conveyance does not involve any improvements on the Common Areas, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds may be used by the Association for such purposes as the Board shall determine.

Section 6. Damage or Destruction. If any improvements located on any Common Areas are damaged or destroyed on account of the occurrence of any casualty, the Board of Directors shall proceed with the filing and settlement of all claims arising under any policy of insurance maintained by the Association with respect to such improvements and shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed improvements.

Any such damage or destruction shall be repaired or reconstructed unless it shall be decided, within ninety (90) days after the occurrence of casualty, by at least 67% of the Class A votes (and by Declarant, if during the Development Period), not to repair or reconstruct such damage. If that it shall be decided not to repair or reconstruct some damage or destruction, the proceeds of any insurance as may become payable to the Association as a result of such damage or destruction shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit. If the insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Class A Members, levy special assessments to cover the shortfall.

Section 7. Actions Requiring Owner Approval. Any conveyance or mortgaging of the Common Areas will require the consent of at least 80% of the Class A votes held by Members other than the Declarant and, if during the Development Period, the consent of Declarant. Notwithstanding anything to the contrary in this section, however, the Association, acting through the Board of Directors, may grant easements over the Common Areas for installation and maintenance of utilities and drainage facilities, roads and pathways, and for other purposes not inconsistent with the intended use of the Common Areas, without the approval of the Membership.

Section 8. No Partition. The Common Areas shall remain undivided and no Owner shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the Property and without the written consent of all holders of all mortgages encumbering any portion of the Property.

Section 9. Taxes and Governmental Assessments. The Association shall pay when due, and in any case before the accrual of penalties thereon, all taxes, assessments, license fees, permit fees and other charges imposed by any governmental authority in connection with the Association's ownership or operation of the Common Area. Provided, however, that the Association may institute an appropriate legal proceeding for the purpose of contesting or objecting to the amount or the validity of any such tax, assessment, fee, or charge by appropriate legal proceedings. If the Association fails to pay any governmental charge when due or fails to contest any governmental charge in a timely and appropriate legal proceeding, then each Owner shall become personally obligated to pay to the governmental authority imposing such charge a portion of the charge in an amount determined by multiplying the total charge by a fraction, the denominator of which is the total Units and the numerator of which is the Units owned by the Owner for whom the calculation is being performed (the "Owner's Share"). If the Owner does not pay the Owner's Share within thirty (30) days following actual notice to the Owner of the Owner's Share, then the Owner's Share shall become a continuing lien on the property owned by the Owner, and the governmental entity may bring an action at law against the Owner to obtain payment of the Owner's Share or may foreclose the lien against the property of the Owner.

ARTICLE VI. ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation. Each Owner, by acceptance of a deed or other conveyance for a Unit, covenants and agrees to pay to the Association all assessments and charges which are levied by the Association against the Unit(s) owned by such person in accordance with the terms and provisions of this Declaration.

All sums lawfully assessed by the Association against any Unit and the Owner thereof, together with interest thereon, late charges, and the costs of collection thereof, shall, from the time the sums become due and payable, be the personal obligation of the Owner of such Unit and constitute a continuing lien in favor of the Association on such Unit prior and superior to all other liens whatsoever except: (1) Liens for ad valorem taxes on the Unit; (2) The lien of any first priority mortgage covering the Unit and the lien of any mortgage recorded prior to the recording of this Declaration; and (3) The lien of any secondary purchase money Mortgage covering the Unit, provided that neither the grantee nor any affiliate or successor grantee of such Mortgage is the seller of the Unit. The covenant to pay assessments herein stated is and shall be a covenant running with land.

Section 2. Purposes of Assessments. The assessments levied by the Association pursuant to this Article VI shall be used to pay amounts due from the Association or its Members as a Commercial Site as defined in and provided pursuant to the Master Declaration, the costs and expenses which the Association shall incur in connection with the performance of its duties and responsibilities pursuant to the Act, this Declaration, the Articles of Incorporation and the Bylaws (such costs and expenses being herein referred to as the "Annual Expenses"). Without limiting the generality of the foregoing, the Annual Expenses shall include the costs of: payment of all costs and expenses incurred by the Association in connection with the maintenance of the Area of Common Responsibility and the Association's other operations; payment of the premiums for all insurance, fidelity and other bonds which shall be obtained by the Association; the payment of the fees of such management firms as the Board of Directors shall employ; payment of fees for the provision of such professional services as the Board of Directors shall determine to be required by the Association, including but not limited to legal, accounting and architectural services; and such other purposes as the Board of Directors shall deem necessary or desirable to promote the health, safety and welfare of the Association and its Members.

Section 3. Determination of Annual Assessment and Shares Thereof. Prior to the commencement of each fiscal year of the Association (said fiscal year being specified in the Bylaws) or at any time it deems best, the Board of Directors shall estimate the total amount of the Annual Expenses which are anticipated to be incurred by the Association during such fiscal year and shall determine the amount which will be deposited during such fiscal year into reserve funds maintained by the Association. The Board of Directors shall thereupon adopt a budget for the Association's expenditures and reserves based upon such estimate and providing for the total annual assessment to be levied against the Members of the Association for such fiscal year (the total assessment which shall be so determined and levied for any fiscal year is herein referred to as the "Annual Assessment"). The Master Declarant and the Master Association shall have the right to review each budget. If North Carolina law requires that the

Owners approve the budget, the budget shall be approved by the Owners in the manner and through the procedures specified by North Carolina law and as specified in the Bylaws.

The assessments provided for herein shall commence as to a Unit on the date that Declarant transfers the Unit. Each Owner shall pay a portion of the Annual Assessment that will be calculated by multiplying the total Annual Assessment by a fraction, the denominator will be the number of Units and the numerator will be the number of Units that Owner owns. The result may be adjusted by the Board of Directors by up to One Hundred Dollars (\$100) for the purpose of creating whole dollar amounts for payments, equal periodic payments and avoiding losses due to rounding. The Board of Directors shall send a copy of the budget adopted as provided above, together with a written notice of the amount of the Annual Assessment so determined for such fiscal year and the amount of such Annual Assessment which shall be levied against each Unit, to the Owner of every Unit, prior to the commencement of the fiscal year during which such Annual Assessment is to be paid. The amount of such Annual Assessment which shall be levied against each Unit shall be due and payable to the Association in a single installment or in such multiple installments as the Board of Directors shall determine and shall be paid to the Association when due without further notice.

Section 4. Special Assessments. If for any reason, including non-payment of any assessments to the Association by the persons liable therefore, the budget adopted by the Board of Directors for any fiscal year proves to be inadequate to defray the Annual Expenses for such fiscal year, additional assessments are required under the Master Declaration or if the Board of Directors determines that it is in the best interests of the Association to levy a special assessment to pay the costs of any capital improvements or capital repairs, the Board of Directors shall have the authority to levy a special assessment against the Units and the Owners thereof to raise such needed funds. Any special assessment levied by the Board of Directors pursuant to the provisions of this section shall be payable at such times and such installments as the Board of Directors shall determine. Each Improved Unit shall be liable for the payment of an equal share of every special assessment which shall be levied by the Association pursuant to the provisions of this section.

Section 5. Specific Assessments. The Board of Directors may levy specific assessments against individual Owners (i) for the purpose of paying for the costs of any construction, reconstruction, repair or replacement of anything maintained by the Association or fines imposed on the Association, which is occasioned by the act(s) of individual Owner(s), their family, pets or their invitees, and not the result of ordinary wear and tear, (ii) for the payment of fines, penalties or other charges imposed against an individual Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws, or any rules or regulations promulgated hereunder, or (iii) for any common expenses, other than expenses for the maintenance of the Areas of Common Responsibility, which benefit less than all of the Units or which significantly disproportionately benefit all Units (which expenses may be specially assessed equitably among all of the Units which are benefited according to the benefit received); provided that in no event shall Declarant be obligated to pay any specific assessment. Failure of the Board of Directors to exercise its authority under this section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board of Directors' right to exercise its authority under this section in the future with respect to any expenses.

Upon the establishment of a specific assessment under this section, the Board of Directors shall send written notice of the amount and due date of such specific assessment to the affected Owner(s) at least thirty (30) days prior to the date such specific assessment is due.

Section 6. Special Assessment for Working Capital Reserve. Upon the first transfer of title of an Improved Unit and each resale thereof, there shall be levied against such Improved Unit and paid to the Association a special assessment against such Improved Unit as set from time to time by Declarant or the Board of Directors of the Association. Such amount shall be not less than 1/6 of the Annual Assessment or greater than the total amount of the Annual Assessment which shall have been levied against Improved Units for the calendar year in which such transfer of title takes place. The Association shall use all special assessment payments to establish a working capital reserve fund for use in connection with capital repairs and improvements. Declarant or Board of Directors shall endeavor to collect such special assessment at the closing of the purchase of the Improved Unit, however the failure to collect such special assessment at that time shall not excuse the obligation to make such payment.

Section 7. Effect of Non-Payment of Assessments; Remedies of the Association.

- (a) If any member of the Association fails to pay, within ten (10) days after the date the same is due

and payable, any annual, special, or specific assessment, or any installment of any such assessments which is payable by him to the Association, the entire amount of such assessment, including the portion thereof which would otherwise be payable in installments, may be declared by the Board of Directors to be immediately due and payable in full to the Association. All such amounts so declared by the Board of Directors to be due and payable in full to the Association shall be secured by the lien of the Association on every Unit owned by the delinquent Member, which lien shall bind such Unit or Units in the hands of the then Owner, and his heirs, devisees, successors and assigns. In addition to the lien rights, the personal obligation of the then Owner to pay such assessments shall remain his personal obligation and shall also pass to his successors in title. Such Owner shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which said Owner was obligated to pay immediately preceding the transfer; and such Owner and such successors in title shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such Owner and successors in title creating any indemnification of the Owner or any relationship of principal and surety as between themselves.

(b) All amounts which the Board of Directors shall declare to be due and payable pursuant to this section shall bear interest from the date of delinquency at the lower of the rate of eighteen (18%) percent per annum or the highest rate permitted by law and will be subject to a late charge in an amount to be set by the Board of Directors from time to time, provided that such amount must not exceed the maximum amount allowed by North Carolina law. The Association may bring legal action against the Member of the Association personally obligated to pay the same, or foreclose its lien upon the Unit or Units of such Member. Each delinquent Member shall be liable to the Association for all costs and attorneys' fees which the Association shall incur in connection with the collection of such delinquent amounts.

Section 8. Budget Deficits During Declarant Control Period. Declarant may advance funds to the Association sufficient to satisfy the deficit, if any, in any fiscal year between the actual operating expenses of the Association (exclusive of any allocation for capital reserves) and the annual and special assessments for such fiscal year. Such advances shall be evidenced by promissory notes from the Association in favor of Declarant and shall be paid back to Declarant if and to the extent that sufficient funds are generated by assessments in future years until such time as Declarant no longer has the authority to appoint the directors and officers of the Association.

Section 9. Failure to Assess. The failure of the Board of Directors to fix the assessment amounts or to deliver to each Owner the assessment notice shall not be deemed a waiver, modification or release of any Owner of the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

ARTICLE VII. MAINTENANCE OF UNITS

Section 1. Association's Maintenance Responsibility. Except as may be specifically provided otherwise below, the Association shall maintain the Area of Common Responsibility, including: (a) any landscaping and Yard Improvements (as defined further below); (b) storm water drainage facilities located on and serving the Units; (c) all exterior portions of the Units, including but not limited to exterior materials, shutters, painting and roofs, excluding, however, windows, doors, patios, and light fixtures, each of which excluded items shall be maintained by the Owner; (d) termite and wood-infestation treatment and bond on the Units; and (e) natural areas, landscaped areas, and walking trails. If the Association determines that any maintenance which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, or the occupant, family, guest, invitee or lessee of an Owner, then the Association may perform such maintenance and all costs thereof may be assessed to the Owner as a Specific Assessment. The Association may be relieved of all or any portion of its maintenance responsibilities to the extent that such property is dedicated to any local, state or federal government or quasi-governmental entity and said entity accepts the responsibility for maintenance and may be relieved of all or any portion of its maintenance responsibilities to the extent such maintenance is undertaken by the Master Association. In the event of any such assumption, assignment or dedication, however, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board of Directors determines that such maintenance is desirable or necessary.

The Board of Directors, in its sole discretion, may leave portions of the Property as undisturbed natural areas and may change the landscaping on the Area of Common Responsibility at any time and from time to time, including the adding or modifying of landscaping improvements, such as the planting of seasonal flowers.

The Association shall be responsible for maintaining the grass, plants, shrubs, trees, and landscaping installed by the Declarant or the Association on the Units (hereinafter the "Yard Improvements"), such maintenance to include the mowing, watering, and trimming grass and raking leaves. The Association also may maintain any Yard Improvements that are installed by an Owner with prior approval and consent of the Association (but only to the extent that such consent specifically provides that the Association will maintain such added landscaping), provided, however, that: (i) if an Owner installs a fence (unless the fence has dual sided gates and is no more than four feet (4') tall and constructed of black aluminum) on their Unit, the Association shall have no responsibility for maintaining any Yard Improvements inside of such fence, (ii) the Association's obligation to maintain shall not include the obligation to replace any plant, shrub or tree for any reason; and (iii) the Association shall not be responsible for repair or replacement of any Yard Improvements when such repair or replacement is necessitated by work done by or at the request of any Owner or any utility company or governmental authority. If a common irrigation system that provides irrigation for the Units is installed by Declarant, the Association shall maintain, repair and operate such system in good condition, subject to the requirements of the applicable governmental authorities, including but not limited to, any restrictions imposed or recommended during periods of drought. If individual irrigation systems are installed to serve the Units individually, the Association may set the times at which such irrigation systems will water a Unit's landscaping, the duration of such watering and may control an Owner's use of such system, all without incurring any cost for water or other utility charge.

Section 2. Owner's Maintenance Responsibility. All maintenance and repair of each Unit not undertaken by the Association shall be the sole responsibility of the Owner thereof, who shall maintain such Unit and its appurtenances in a manner consistent with this Declaration. Such maintenance obligation shall include, without limitation, the following: prompt removal of litter and waste; keeping improvements in neat and clean condition, and compliance with all governmental requirements.

If the Board of Directors determines that any Owner has failed or refused to discharge properly such Owner's obligations hereunder, the Board of Directors shall have the right, exercisable by it or through its agents or employees, and after giving to the Owner of such Unit at least fourteen (14) days' notice and an opportunity to correct the unsatisfactory condition (except in the event of an emergency situation, which shall be solely determined by the Board of Directors, in which case no notice and opportunity to correct shall be required), to enter upon such Unit or appurtenance and correct the unsatisfactory condition. The Owner of the Unit with respect to which such maintenance work is performed by the Association (or its agents or employees) shall be personally liable to the Association for all direct and indirect costs as may be incurred by the Association in connection with the performance of such maintenance work, and the liability for such costs shall be secured by all the liens, and shall be subject to the same means of collection, as are the other assessments and charges provided for in this Declaration. In addition, all such costs shall be paid to the Association by such Owner at the same time as the next due Annual Assessment payment, or at such other time, and in such installments, as the Board of Directors shall determine.

Section 3. Damage or Destruction. In the event of the occurrence of any damage or destruction by fire or other casualty to the improvements on a Unit, such damage or destruction shall be repaired or rebuilt, as applicable, in all events. All repair, reconstruction or rebuilding of the improvements shall be substantially in accordance with the plans and specifications for such damaged or destroyed Improved Unit prior to the occurrence of such damage, or in accordance with such differing plans and specifications as are approved for such purpose by the Owner of such Unit and the Board of Directors. The Owner of such damaged or destroyed Improved Unit shall be responsible for ensuring that the work of repairing, reconstructing or rebuilding a damaged or destroyed Improved Unit is completed as soon after the occurrence of such damaged or destruction as is reasonably practicable, at no cost or expense to the Association.

Section 4. Party Walls. Each wall built as part of the original construction of the Units, which serves and separates any two adjoining Units, and each fence built as part of the original construction of the Units, which serves and separates any two adjoining patio areas, shall constitute a party wall and, to the extent not inconsistent with the provisions of this section, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions. If a party wall is destroyed or damaged by fire or other casualty, then any Owner who has benefited by the wall may restore it, and the other

Owner who is benefited by the wall shall contribute one-half of the cost of restoration, without prejudice, however, the right of any Owner to call for a larger contribution from any other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

ARTICLE VIII. INSURANCE

Section 1. Association Insurance. The Association shall obtain and maintain commercial general liability insurance of at least One Million (\$1,000,000.00) Dollars, and, if reasonably available, directors' and officers' liability insurance. Policies may contain a reasonable deductible as determined by the Board of Directors. In addition, the Board of Directors shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on all persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall at least equal three months' total assessments plus reserves on hand. Fidelity coverage shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation. All such insurance coverage shall be written in the name of the Association.

Section 2. Insurance on Association Property. The Association shall maintain, as an Association expense, an all-risk casualty insurance policy on all material and insurable assets of the Association. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy, if reasonably available, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction of a covered item in the event of damage or destruction from any such hazard, subject to such reasonable deductibles as the Board of Directors may establish from time to time. All insurance purchased by the Association pursuant to this Section 2 shall run to the benefit of the Association.

Section 3. Individual Insurance. Each Owner, by virtue of taking title to a Unit subject to this Declaration, acknowledges that the Association has no obligation to provide any insurance for any portion of individual Units. Each Owner covenants and agrees with all other Owners and with the Association that each Owner will maintain at all times all-risk casualty insurance on such Owner's Unit, as well as a liability policy covering damage or injury occurring on a Unit. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy, if reasonably available, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction of a covered item in the event of damage or destruction from any such hazard.

The Board of Directors has the right, but not the obligation, to require the Owner to furnish a copy of such insurance policy or policies to the Association. In the event that any such Owner fails to obtain insurance as required by this section, the Association has the right, but not the obligation, to purchase such insurance on behalf of the Owner and to assess the cost thereof to the Owner, to be collected in the manner provided for collection of assessments herein.

Upon request by the Board of Directors, the Owner shall furnish a copy of such insurance policy or policies to the Association.

Section 4. Additional Insurance Requirements.

The Board of Directors shall utilize reasonable efforts to include the following provisions in the policies that the Association obtains:

- (a) waiver of the insurer's rights of subrogation of any claims against directors, officers, the managing agent, the individual Owners, occupants, and their respective household members;
- (b) an agreed value endorsement and an inflation guard endorsement;
- (c) any "other insurance" clause contained in the master townhome policy shall expressly exclude individual Owners' policies from its operation;
- (d) until the expiration of thirty (30) days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the

Owner of such Unit, the other Owners, the Board of Directors, or any of their agents, employees, or household members, nor be canceled for nonpayment of premiums; and

(e) the master townhome policy may not be canceled, substantially modified, or subjected to non-renewal without at least thirty (30) days prior notice in writing to the Board of Directors and all Mortgagees of Units.

All policies of insurance shall be written with a company licensed to do business in the State of North Carolina. Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

Nothing contained herein gives any Owner or other party a priority over the rights of first Mortgagees as to distribution of insurance proceeds. Any insurance proceeds payable to the Owner of a Unit on which there is a Mortgagee endorsement shall be disbursed jointly to such Unit Owner and the Mortgagee. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the person or persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one Unit, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected Owner's portion of the total cost of repair. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Unit Owner shall be responsible for paying the deductible pertaining to his or her Unit, if any. If any Owner or Owners fail to pay the deductible when required under this subparagraph, then the Association may pay the deductible and assess the cost to the Owner or Owners pursuant to the terms of this Declaration.

Additionally, the Association shall obtain such insurance coverage as is necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs, and the U.S. Department of Housing and Urban Development, if and to the extent applicable to the Property.

Nothing contained herein requires the Association to make a claim under the insurance policies upon the occurrence of an insured event. The Association has the right to exercise reasonable business judgment in all insurance decisions.

ARTICLE IX. ARCHITECTURAL CONTROL

Section 1. Architectural Control.

(a) No exterior construction, alteration or addition of any nature whatsoever (including but not limited to a building, outbuilding, driveway, walkway, fence, wall, garage, patio, carport, playhouse, play set, swing set, trampoline, swimming pool or other structure, staking, clearing, excavation, ditching, grading, filling, change in color or type of any existing improvement, planting or removal of landscaping materials, exterior lighting, placement or installation of statuary, flags, fountains and similar items, improvements or modifications to the roof, material, color, paint stain or varnish, or the interior porches, patios or similar portions of a structure which are visible from outside the Unit), shall be commenced, placed or maintained upon any portion of the Property until complete and final plans and specifications setting forth the information hereinafter described shall have been submitted to, and approved in writing by, the Architectural Review Committee (the "ARC") as to the harmony of the exterior design and general quality with the existing standards, and as to location in relation to surrounding structures and topography. The ARC is authorized to adopt procedures regarding applications for design approvals and the procedure it uses for processing applications.

The owner of each Unit shall include with each application for approval such information, plans and documents as the ARC may reasonably request and shall include the name of the contractor a statement as to the classification of contractor's license held by such contractor and the address and telephone number of the contractor. This information shall be submitted to the ARC with the application. If the identity and license information for the

contractor is not available when the Owner makes application to the ARC, the information shall be submitted to the ARC at least thirty (30) days prior to commencement of construction.

ARC approvals shall be valid for one year from the date of issuance, except as to ARC approvals issued to a Builder that specify a longer duration and then only as to the duration stated in such approval, and ARC approvals will not be modified or terminated during such period. If construction does not commence on a project for which plans have been approved within one year after the date of approval, except as to ARC approvals issued to a Builder that specify a longer duration and then only as to the duration stated in such approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the ARC grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, without limiting the generality of the foregoing, the Association may, in its sole discretion, either restore the Unit to the condition that existed before construction began or may complete construction, either at the Owner's costs and with lien rights created herein and under North Carolina law.

(b) The plans and specifications, which must be submitted to the ARC prior to the commencement of any such work upon any Unit, as hereinabove provided, shall contain at least the nature, kind, shape, height, materials, color, texture and location of such structure, alteration or landscaping and such other information as the ARC may reasonably request in order to render a decision.

(c) The ARC shall, within a reasonable time after request by an Owner, furnish to any Owner a certificate in writing signed by a member of the ARC, stating whether any exterior addition to, change in, or alteration of any structure or landscaping owned by such member on a Unit is in compliance with the provisions of this section, and such certificate shall be conclusive as to whether the same is in such compliance.

(d) If any construction or alteration or landscaping work is undertaken or performed upon any portion of the Property (i) without application having been first made and approval obtained as provided in paragraph (a) of this section, (ii) in a manner that deviates from the plans approved by the ARC, or (iii) without prompt completion, as determined by the ARC, said work shall be deemed to be in violation of this covenant, and the Owner upon whose Unit said work was undertaken or performed or the Neighborhood Association upon whose Property said work was undertaken or performed may, in the case of unapproved work, be required to restore to its original condition, at his sole expense, the property upon which said work was undertaken or performed, or in the case of approved work, complete the work promptly and in strict compliance with approved plans. Upon the failure or refusal of any Person to perform the work required herein, the ARC, or their authorized agents or employees, may, after fourteen (14) days' notice to such Person, enter upon the property, and make such restoration or complete such work as the ARC, in the exercise of its discretion, may deem necessary or advisable. The Person upon whose property such work shall have been performed shall be personally liable to the Association for all direct and indirect costs which the Association shall incur in the performance of such work, including without limitation, reasonable attorneys' fees, and the liability for such cost shall be secured by all the liens, and shall be subject to the same means of collection, as the assessments provided for in this Declaration. Such costs shall be paid to the Association by the Person liable for the same at the same time as the next due Annual Assessment payment, or at such earlier time, and in such installments, as the Board of Directors shall determine.

Section 2. No Combination of Units. Contiguous Units may not be combined without the prior written consent of the ARC. If the ARC approves a combination, such combination shall thereafter be deemed to be a single Unit for all purposes of this Declaration, except that notwithstanding the foregoing, the amount of assessments for which such single Unit shall be thereafter liable shall be equal to the total assessments for which all of the Units that were combined would have been liable had such combination not taken place.

Section 3. Declarant Exemption. Notwithstanding anything stated to the contrary herein, nothing contained in this Article IX shall be construed as prohibiting any construction, alteration, addition or removal by the Declarant upon any portion of the Property while such property is owned by the Declarant. Any construction, alteration, addition or removal performed by the Declarant upon any property while such property is owned by the Declarant shall be exempt from the provisions of this Article.

Section 4. Architectural Review Committee. Responsibility for the review of all applications under this Article IX shall be vested in the ARC, the members of which need not be Owners, Members of the Association or representatives of Owners or Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Association. The ARC may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred by the ARC in having any application reviewed by architects, engineers or other professionals.

The ARC shall have exclusive jurisdiction over all construction, alterations or additions on any portion of the Property. Until one hundred (100%) percent of the Units are Improved Units, the Declarant retains the right to appoint all members of the ARC, who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration or surrender of such right, the Board shall appoint the members of the ARC, who shall thereafter serve and may be removed in the Board's discretion.

ARC approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

Section 5. Delegation. The ARC, with the approval of the Board, may delegate its responsibilities in defined categories of review (such as, but not limited to, changes during construction to previously approved plans) to a subcommittee, designated ARC member or staff member, and may create from among its staff and/or members subcommittees to perform certain or all of its review tasks, and may also employ professional assistance in carrying out its duties and responsibilities. No delegation of the ARC's responsibilities will prevent the ARC from reviewing and overturning the decision of the person or entity to which such authority was delegated. The ARC or the Board may revoke, at any time, any delegation of the ARC's responsibilities.

Section 6. Limitation of Liability. The standards and procedures established pursuant to this Article IX are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Property only and shall not impose on Declarant, the Association or the ARC any duty to any Person. Neither Declarant, the Association, nor the ARC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage, or for ensuring compliance with building codes and other requirements or regulations of the Governmental Authorities. IN ALL CASES THE OWNER IS RESPONSIBLE FOR ENSURING COMPLIANCE WITH BUILDING CODES AND OTHER GOVERNMENTAL REGULATIONS AND FOR ENSURING THE STRUCTURAL INTEGRITY OR SOUNDNESS OF PROPOSED CONSTRUCTION OR MODIFICATIONS, THE ADEQUACY OF SOILS OR DRAINAGE. Neither Declarant, the Association, the ARC, nor any member of any of the foregoing, shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit. In all matters, the ARC and its members shall be defended and indemnified by the Association as provided in this Declaration and the Articles of Incorporation and Bylaws of the Association.

Section 7. Committee Approval. The approvals required under this Article IX are in addition to and not in lieu of the approvals required under Article V of the Master Declaration.

ARTICLE X. RESTRICTIONS

To provide for the maximum enjoyment of the Units by all of the residents thereof and to provide protection for the value of the same, the use of the Units shall be restricted to, and shall be only in accordance with, the applicable zoning ordinances with respect to the Property and the following provisions:

Section 1. Residential Use. All of the Units, attached or detached, shall be restricted exclusively to single-family residential use. The term "single-family" shall include one or more related or unrelated adults, as well as the children of any such adults. No Unit shall at any time be used for any commercial, business or professional purpose. Notwithstanding the foregoing, however, nothing set forth in this section shall prohibit: (a) Declarant or a Builder

authorized by Declarant from conducting such sales, leasing and promotional activities on any Unit as Declarant shall determine; or (b) the Owner of any Unit from using a portion of a building located on such Unit as an office, provided that such use does not create regular customer, client or employee traffic to and from such Unit and no sign, logo, symbol or nameplate identifying such business is displayed anywhere on such Unit.

Section 2. Prohibited Activities. No noxious, offensive, unsightly or unkempt activity shall be conducted on any Unit. Each Owner of any Unit, his family, tenants, guests and invitees, shall refrain from any act or use of his property which could reasonably cause embarrassment, discomfort, annoyance or nuisance to any other resident or residents of any other Unit. Storage or placement of furniture, potted plants, fixtures, appliances, machinery, bicycles, towels, clotheslines, equipment or other goods or chattels on any portion of a Unit which is visible from outside of the Unit is prohibited except as specifically permitted in this Declaration. No nuisance shall be permitted to exist upon any Unit. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Unit, or any portion thereof.

Section 3. Animals. No Owner may keep any more than two pets on any portion of the Property. Only fully domesticated breeds of dogs and cats are permitted. No Owner or occupant may keep, breed or maintain any pet for any commercial purpose. No Owner or occupant may keep or maintain a dog whose persistent barking causes annoyance or nuisance to any other resident of any other Unit. No animals shall be left unattended while outside. Animals must be kept on a leash and be under the physical control of a responsible person at all times while outdoors. Any feces left upon the Common Areas by an animal must be removed by the owner of the animal or the person responsible for the animal.

No animal determined to be dangerous, in the Board of Directors' sole and absolute discretion, may be brought onto or kept on the Property at any time. The Board of Directors may have removed by the local authorities, without notice to the animal's owner, any animal that presents an immediate danger to the health, safety or property of any person.

Each Owner who keeps an animal on the Property agrees to indemnify and hold the Association and its directors, officers and agents harmless from any loss, claim or liability of any kind whatsoever arising by reason of such animal.

Section 4. Antennae; Aerials; Satellite Dishes. No transmission antenna of any kind may be erected anywhere on a Unit without the prior written consent of the ACC. No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one (1) meter in diameter may be placed, allowed or maintained upon any Unit. A DBS or MMDS antenna one (1) meter or less in diameter or television broadcast service antenna may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association as authorized by the FCC, as both may be amended from time to time. HAM radios, two way radios and other hobby or professional radio communication transmission equipment are prohibited.

Declarant or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus of any size for a master antenna, cable, or other communication system for the benefit of all or a portion of the Property.

Section 5. Lighting. Exterior lighting visible from the street shall not be permitted except for: (1) approved lighting as originally installed on a Unit; (2) one approved decorative post light; (3) pathway lighting; (4) street lights in conformity with an established street lighting program for the Property; (5) seasonal decorative lights; or (6) front house illumination of model homes.

Section 6. Mailboxes. No change or addition, other than by the Board of Directors, shall be made to the design, materials or location of the original kiosk installed by Declarant, unless specifically approved by the ARC no mailbox, paper box, or delivery receptacle may be placed on a Unit.

Section 7. Signs. No sign of any kind or character shall be erected on any portion of any Unit, or displayed to the public on any portion of any Unit, without the prior written consent of the Board of Directors, except for customary name and address signs, one customary "for sale" sign advertising a Unit for sale and any sign required by legal proceedings. The restriction herein stated shall include the prohibition of placement of any sign within a

building located on any Unit in a location from which the same shall be visible from the outside and the placement of any sign in or upon any motor vehicle.

Section 8. Trash Containers and Collection. No garbage or trash shall be placed or kept on the Property except in covered containers of a type, size and style which are approved by the Board of Directors or as required by the applicable governing jurisdiction, and subject to rules promulgated by the Association. No person shall burn rubbish, garbage or any other form of solid waste on any Unit or on Common Areas or within the right of way of any street within the Property. The Association may contract with a waste disposal service for disposal of household waste generated by members on the Property and may promulgate rules related to garbage.

Section 9. Vehicles and Parking. The term "vehicles" as used in this section shall include without limitation automobiles, trucks, boats, trailers, motorcycles, campers, vans, and recreational vehicles. No vehicle may be left upon any portion of the Property except upon a driveway, a designated parking space or within a garage. With the exception of emergency vehicle repairs or commercial vehicles which are temporarily parked for the purpose of servicing a Unit or the Property, no person shall park any commercial vehicles (including but not limited to any type of vehicle with equipment racks, advertising, or lettering), recreational vehicles, mobile homes, trailers, campers, boats or other watercraft, or other oversized vehicles, stored vehicles or unlicensed or inoperable vehicles within the Property except within a garage.

All Owner and occupant vehicles must be kept and stored when not in use within the Unit's garage space or driveway. Garage doors must remain closed at all times except for entry and exit by vehicles and except for periods not to exceed two consecutive hours for homeowner related maintenance activities. No conversion of garage space to living space shall be permitted.

The Association may promulgate and enforce additional rules and restrictions regarding vehicles and parking privileges on the Units and Common Areas.

Section 10. Window Air-Conditioners. No air-conditioner shall be installed in any window of any building located on any Unit, nor shall any air-conditioner be installed on any building located on any Unit so that the same protrudes through any exterior wall of such building.

Section 11. Window Treatments. Except as may be otherwise approved in accordance with the Architectural Control provisions contained in the previous Article IX, all window treatments visible from the outside of a Unit shall be white or off-white in color. No bed sheets, newspaper, tin foil, or similar materials may be used as window treatments.

Section 12. No Subdivision of Units or Timesharing. No Unit may be further subdivided into any smaller Unit. No Unit shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the exclusive use of the Unit rotates among members of the program on a fixed or floating time schedule over a period of years.

Section 13. No Combination of Units. Contiguous Units may not be combined together without prior written consent of the Board of Directors. In the event that the Board of Directors does approve such a combination, such combination shall thereafter be deemed to be a single Unit for all purposes of this Declaration, except that notwithstanding the foregoing, the amount of assessments for which such single Unit shall be thereafter liable shall be equal to the total assessments for which all of the Units which were so combined would have been liable had such combination not taken place.

Section 14. Decks, Patio Areas, Stoops, Driveways and Sheds. Grills, patio furniture, potted plants and other items may be permitted on patio areas, subject to local ordinances and any rules promulgated by the Association with respect thereto. Any items placed on front stoops and driveways must comply with any rules promulgated by the Association with respect thereto. Detached storage buildings, sheds or animal pens are prohibited.

Section 15. Interpretation. In all cases, the covenants and restrictions herein contained shall be construed and interpreted in a manner which, in the opinion of the Board of Directors, will best effect the intent of the general plan of development and maintenance herein set forth. Subject to the terms of this Article and the Board of Directors' duty to exercise business judgment and reasonableness, the Board of Directors may modify, cancel, limit,

create exceptions to, or expand the restrictions contained herein and may create, modify and enforce reasonable rules governing the use of the Property consistent with the law and with other provisions in this Declaration. The Board of Directors shall send notice to all Owners concerning any new or amended restrictions or rules prior to the date that such restrictions or rules go into effect. For this purpose, notice may be sent to each Owner by U.S. mail, hand delivery, electronic telecommunication or publication in a community notice or newsletter delivered or mailed to each Owner.

Section 16. Removal of Trees. The City of Durham, NC (the "City") maintains requirements that currently affect the Property regarding "tree coverage" or "tree protection", as are set forth by City ordinance or City zoning code. All owners shall be responsible for observing and complying with the applicable ordinances and requirements of the City concerning tree removal and tree protection. Because the ordinances and requirements of the City may change from time to time, all Owners should consult the City planning department or other applicable entity prior to the removal or disturbance of any trees from or on their Lot.

The Association shall keep and maintain any portion of the Open Space designated on a Final Plat as a "Tree Coverage Area" in its natural and undisturbed state, and no Person shall remove any trees or other vegetation within such area or take any other action that would disturb or alter the undisturbed condition or nature of such area, except that the Association has the right to remove dead or diseased trees and to take other actions with the approval of the City.

Section 17. Surface Water Management. No Owner or any other person shall do anything to adversely affect the general surface water management and drainage of the Property, without the prior written approval of the City and any other applicable controlling Governmental Authority, including, but not limited to, the excavation or filling in of any Lot. Provided, however, the foregoing shall not be deemed to prohibit or restrict the initial construction of Improvements upon a Lot or other portion of the Property by Declarant in accordance with permits issued by controlling governmental authorities. In particular, no Owner shall install any landscaping or place any fill on the Owner's Lot which would adversely affect the drainage of any contiguous Unit or Lot. After initial construction by the Declarant or a Builder, no Owner shall be permitted to reshape or alter the topographical features or area within any drainage easement, nor shall any Owner be permitted to install fences or other Improvements or structures within a drainage easement, including the installation of landscaping, plants, trees or other vegetation, except for low growing grass. The application of herbicide to the portions of the Property within any drainage easement is prohibited.

Section 18. Flags. Except for the proper and respectful display of the flag of the United States of America or the State of North Carolina in compliance with applicable law and of a size no greater than four (4) feet wide by six (6) feet long, no Owner may erect or install a flagpole or decorative banner on any portion of a Unit, including freestanding detached flagpoles or banners, and those that are attached to a Unit, without the prior written approval of the ARC.

ARTICLE XI MORTGAGE PROVISIONS

Section 1. Notice of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Unit number, therefore becoming an "Eligible Holder"), will be entitled to timely written notice of: (a) any condemnation loss of any casualty loss which affects a material portion of the Property or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such eligible holder; (b) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to the Mortgage of such eligible holder where such delinquency has continued for a period of sixty (60) days; (c) any default in the performance by the Owner of such encumbered Unit of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days; and (d) any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

Section 2. Audit. Upon written request of an Eligible Holder and upon payment of all necessary costs, such Eligible Holder shall be entitled to receive a copy of audited financial statements of the Association within 90 days of the date of the request.

Section 3. No Priority. No provision of this Declaration or the Bylaws gives any Owner or other party priority over any rights of a Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or taking of the Common Areas.

Section 4. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board of Directors to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE XII. AMENDMENT

Until the termination of the Development Period, the Declaration may be amended only by Declarant, who, subject to the approval of the Master Declarant, may unilaterally amend this Declaration for any purpose. Thereafter, Declarant or the Board of Directors may unilaterally amend this Declaration if such amendment is necessary to: (a) bring any provision hereof into compliance with any applicable governmental statute, rules or regulation or judicial determination which shall be in conflict therewith, (b) enable any reputable title insurance company to issue title insurance coverage with respect to the Units, (c) enable an institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans (such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation) to make, purchase, insure or guarantee mortgage loans on the Units, (d) an amendment is necessary to enable any governmental agency or private insurance company, including but not limited to the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs, to insure or guarantee mortgage loans on the Units. However, any such amendment shall not adversely affect the title to any Owner's Unit unless such Unit Owner shall consent thereto in writing, or (e) an amendment related to the merger of the Association into the Master Association or some other owner's association. Notwithstanding the foregoing, no amendment (a) through (e) shall amend the provisions with respect to the Master Declaration, the Master Association or the Master Declarant. After the termination of the Development Period, except for items (a) through (e) above, this Declaration may be amended only upon the affirmative vote or written consent, or any combination thereof, of 2/3 of the Unit Owners and consented to by the Master Declarant.

Any amendment shall become effective upon the recording with the Registry of the instrument evidencing such change unless a later effective date is specified therein. If an Owner consents to an amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment. Any procedural challenge to an amendment must be made within six months of the recording of the amendment or such amendment shall be presumed to have been validly adopted.

Every Owner, by taking record title to a Unit, and each holder of a mortgage upon any portion of any Unit, by acceptance of such mortgage, hereby agrees that the terms, provisions, covenants and restrictions of this Declaration may be amended as provided herein.

ARTICLE XIII. MISCELLANEOUS

Section 1. Failure of Enforcement. If the Association fails to enforce the compliance with any of the provisions of this Declaration by the Owner of any Unit, then the Owner of any other Unit shall have the right to file an action in the Superior Court of the county where the Property is located for an order from such Court requiring that the Association enforce such compliance; provided, however, in no event shall the Board of Directors, or any officer of the Association, or any of their agents, be personally liable to anyone on account of their failure to enforce any of the terms, provisions or restrictions set forth in this Declaration.

Section 2. No Waivers. In no event shall the failure by the Association to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, provisions or agreements set forth in this Declaration be construed as a waiver or relinquishment of the future enforcement of any such term, covenant,

condition, provision, or agreement. The acceptance of performance of anything required to be performed with knowledge of the breach of a term, covenant, condition, provision or agreement shall not be deemed a waiver of such breach, and no waiver by the Association of any term, covenant, condition, provision or agreement shall be deemed to have been made unless expressed in writing and signed by a duly authorized officer of the Association.

Section 3. Duration. This Declaration, and all of the terms, easements, provisions, liens, charges, restrictions and covenants set forth herein, shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from and after the date this Declaration is recorded, after which time such covenants and restrictions shall be automatically extended for successive periods of twenty (20) years until the recordation of an instrument of termination within two (2) years of the expiration of the initial twenty-year period or any extension thereof, such instrument having been executed by a minimum of sixty-six percent (66%) of the record Owners of the Units.

Section 4. Notices. Any notice required or permitted to be sent to any member of the Association pursuant to any provision of this Declaration may be served by depositing such notice in the mail, postage prepaid, addressed to the member or Owner to whom it is intended, at the address which such member shall have furnished to the Secretary of the Association in accordance with the Bylaws, or, in the absence of any such address having been so furnished to the Secretary of the Association, at the address of the Unit owned by such member. The date of service shall be the date of mailing. The address of Declarant or the Association shall be the address of its respective registered agent on file with the Secretary of State of North Carolina. The date of service shall be the date shown on the return receipt. Rejection or other refusal to accept shall be deemed to be receipt of the notice sent.

Section 5. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 6. Judicial Proceedings. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any Person or Persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Units, to enforce any liens created by this Declaration. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Unit Owners which approval must be accompanied by the approval of a reasonable litigation budget and the approval of a Special Assent in an amount equal to the litigation budget to be levied equally among the Units and collected before commencement of any action. This section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including the foreclosure of liens); (b) the collections of assessments; (c) proceeding involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 7. Successors to Declarant. In no event shall any person or other entity succeeding to the interest of Declarant by operation of law or through purchase of Declarant's interest in all or any portion of the Property at foreclosure, sale under power or by deed in lieu of foreclosure, be liable for any act, omission or matter occurring, or arising from any act, omission or matter occurring, prior to the date such successor succeeded to the interest of Declarant.

Section 8. Right to Approve Additional Covenants. No Person shall record any amendment to this Declaration or any declaration of covenants, conditions and restrictions, declaration of condominium, or similar instrument affecting any portion of the Property, during the Development Period, without Declarant's and the Master Declarant's review and written consent, and thereafter without consent of the Association and the Master Declarant. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and recorded by Declarant and Master Declarant.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust on a Unit. Sale or transfer of any Unit shall not affect any assessment lien; however, the sale or transfer of a Unit pursuant to foreclosure of a first mortgage or deed of trust, or

any proceeding in lieu of foreclosure thereof, shall extinguish the lien of any assessments which became due prior to the date of conveyance pursuant to such foreclosure. No such sale or transfer shall relieve such Unit 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 first mortgage or deed of trust.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed by its duly authorized officers on the day and year set forth below.

[SIGNATURE APPEARS ON NEXT PAGE]

HHHunt Meridian Durham, LLC,
A limited liability company

By: HHHunt Corporation,
Its Sole Member

By: [Signature]
Name: Harry H. Hunt III
Its: CEO HHHUNT CORP
Date: February 2, 2015

Wake County, North Carolina

I certify that the following person personally appeared before me this day, the 3rd of February 2015, acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: CEO HHHunt Corp.

Witness my hand and official seal, this the 3rd day of February, 2015.

Rhonda K. Seagraves
Printed Name: Rhonda K. Seagraves
My commission expires March 31, 2018

RHONDA K. SEAGROVES
NOTARY PUBLIC
Wake County
North Carolina
My Commission Expires March 31, 2018

CONSENT OF MASTER DECLARANT

Pursuant to the Master Declaration, IVC Meridian Holdings, LLC, a Delaware limited liability company, which is the Declarant under the Master Declaration, approves the Declaration and recordation hereof as evidenced by its signature below. This consent does not constitute a subordination of the Master Declaration or a waiver of any provision of the Master Declaration.

IVC Meridian Holdings, LLC

By: [Signature]
Name: J. Michael C. Bisset
Title: VICE PRESIDENT

STATE OF New York

COUNTY OF New York

I, Michelle Kaler, a Notary Public for said County and State, do hereby certify that J. Michael C. Bisset personally appeared before me this day and acknowledged that s/he is VP of IVC Meridian Holdings, LLC, a Delaware limited liability company, and that s/he, as VP, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 1st day of February, 2015.

[Signature]

Notary Public
MICHELLE L. KALER
Notary Public - State of New York
No. 01KA6289658
Qualified in New York County
My Commission Expires September 30, 2017

My Commission Expires:
9/30/2017

[NOTARIAL SEAL]

JOINDER AND CONSENT OF LENDER

The undersigned, as holder and beneficiary of a security interest in a portion of the Property pursuant to Deed of Trust recorded at Book 7466, Page 664, Durham County Registry (the "Deed of Trust"), hereby joins in the execution of this Declaration for the purpose of agreeing and acknowledging that upon any foreclosure or deed or other proceedings in lieu of foreclosure of the Deed of Trust, or upon any other action taken to enforce the lien of the Deed of Trust, the foregoing Declaration and the rights granted therein shall remain in full force and effect, and shall not be void as a result of any such foreclosure, deed or other proceeding in lieu of foreclosure or other action.

LENDER:
BANK OF AMERICA, N.A.,

By: Shawna Jones
Name: Shawna Jones
Title: Vice President
Date: 2/10/15

STATE OF Virginia
COUNTY OF Fairfax

I, the undersigned, a Notary Public for the County and State aforesaid, certify that Shawna Jones personally appeared before me this day and, being duly sworn, says and deposes, that he/she is the Vice President BANK OF AMERICA N.A., and that he/she executed the foregoing instrument for and on behalf of such bank.

WITNESS my hand and official seal, this the 10th day of February, 2015.

Hanifa L. Carpenter
Notary Public

My Commission Expires: _____

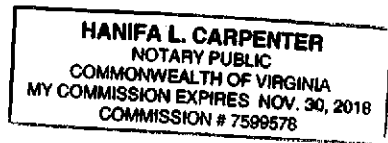


EXHIBIT "A"

Legal Description

State of North Carolina, County of Durham, BEING all of Lot 25R per plat of survey thereof recorded August 20, 2012 in Plat Book 190, at Page 117, the Durham County Registry, to which reference is made for a more particular description of same.