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INSTRUMENT # 2013017818

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

**DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS
FOR TONBO MEADOW**

This Declaration, made the 15th day of May, 2013, by **TONBO MEADOW, LLC**, hereinafter referred to as "Declarant" or "Developer" for the purposes hereinafter stated,

WITNESSETH:

Whereas, Declarant is the owner of certain real property in the City of Wilmington, New Hanover County, North Carolina, known as **TONBO MEADOW**, which is shown on a plat (the "Plat") recorded in the Office of the Register of Deeds of New Hanover County, North Carolina, in Map Book 58 Page 51, to which reference is made for a more particular description (the "Property")

NOW, THEREFORE, Declarant declares that the Property described above shall be held, sold and conveyed subject to the North Carolina Planned Community Act set forth in Chapter 47F of the North Carolina General Statutes (the "Act"), as well as the following easements, restrictions, covenants, and conditions

ARTICLE I.

DEFINITIONS

SECTION 1 Allocated Interest shall mean the Common Expense Liability and votes in the Association allocated to each Lot

SECTION 2 Association shall mean and refer to Tonbo Meadow Townhomes Owners Association, Inc , a North Carolina non-profit corporation, its successors and assigns, the owners association organized pursuant to the Act for the purposes set forth herein

SECTION 3 Common Elements shall mean and refer to all lands and easements within or appurtenant to the Planned Community owned or enjoyed by the

Return to  Alan M. Solana

Association, other than a Lot, and intended for the common use and enjoyment of the Owners, including, without limitation, any private roads and stormwater facilities, including those described in the stormwater plan for the Planned Community (the "Stormwater Plan") Common Elements shall also include any areas designated on any plats for the Planned Community as "Open Space", "Common Area", "Common Element", "Recreation Area", "Amenity Area", or other similar designation

SECTION 4. Common Expenses means expenditures made by or financial liabilities of the Association, together with any allocations to reserves

SECTION 5. Common Expense Liability means the liability for Common Expenses allocated to each Lot as permitted by the Act, this Declaration or otherwise by law

SECTION 6 Declarant shall be used interchangeably with Developer (which designations shall include singular, plural, masculine and neuter as required by the context) and shall mean and refer to Tonbo Meadow, LLC, its successors and assigns, if such successors or assigns should acquire undeveloped property from the Declarant or a Lot not previously disposed of for the purpose of development and reserves or succeeds to any Special Declarant Right

SECTION 7 Declaration shall mean this instrument as it may be from time to time amended or supplemented

SECTION 8 Executive Board or Board shall be used interchangeably with the Board of Directors and means the body, regardless of name, designated in this Declaration or otherwise to act on behalf of the Association

SECTION 9. Limited Common Elements shall mean areas and facilities within any Lot which are for the exclusive use of the Lot Owner but which the Association is obligated to maintain pursuant to the terms of this Declaration The Limited Common Elements shall consist of the exterior of all dwellings, including by way of illustration, but not limited to, roofs, exterior building surfaces, decks and porches, gutters and downspouts

SECTION 10. Lot(s) shall mean and refer to any portion of the Planned Community designated on a recorded subdivision plat for separate ownership by a Lot Owner, together with any dwelling situated thereon

SECTION 11 Lot Owner or Owner shall mean the Declarant or other Person who owns fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation

SECTION 12 Person means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, or agency or other legal or commercial entity

SECTION 13 Planned Community shall mean and refer to the Property plus any Additional Property made a part of it by the exercise of any Special Declarant Right

SECTION 14 Purchaser means any person, other than a declarant or a person in the business of selling real estate for the purchaser's own account, who by means of a voluntary transfer acquires a legal or equitable interest in a Lot, other than (i) a leasehold interest (including renewal options) of less than 20 years, or (ii) as security for an obligation

SECTION 15 Reasonable Attorneys' Fees means attorneys' fees reasonably incurred without regard to any limitations on attorneys' fees which otherwise may be allowed by law

SECTION 16 Special Declarant Rights means rights reserved for the benefit of a Declarant including without limitation the right (i) to complete improvements indicated on plats and plans filed with this Declaration, (ii) to exercise any development right reserved to the Declarant by this Declaration or otherwise, (iii) to maintain sales offices, management offices, signs advertising the Planned Community, and models, (iv) to use easements through the Common Elements for the purpose of making improvements within the Planned Community or within real estate which may be added to the Planned Community; (v) to make the Planned Community part of a larger planned community or group of planned communities, (vi) to appoint or remove any officer or Executive Board Member of the Association during the Declarant Control Period, or (vii) to permit other land to be annexed to and made a part of the Planned Community in accordance with the terms of this Declaration

SECTION 17 Townhouse or Townhome shall mean the dwelling located on a Lot

ARTICLE II.

PROPERTY RIGHTS AND EASEMENTS

SECTION 1 Owners' Property Rights and Easement of Enjoyment
Every Owner shall have and is hereby granted a right and easement of enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The Association may make and amend reasonable rules and regulations governing use of the Common Elements by the Owners, and limiting the number of guests of Members,

(b) The Association may grant a security interest in or convey the Common Elements, or dedicate or transfer all or part of the Common Elements,

to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by at least 80 percent of the Members, excluding the Developer, provided, however, that the Association may without the consent of the Owners grant easements, leases, licenses and concessions through or over the Common Elements. No conveyance or encumbrance of Common Elements shall deprive any Lot of its rights of access or support.

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

(a) easements as necessary in the lands constituting the Common Elements and that portion of each Lot not occupied by a structure for the installation and maintenance of utilities and drainage facilities (including the right of Declarant and the Association to go upon the ground with men and equipment to erect, maintain, inspect, repair and use electric and telephone lines, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, cable TV, gas, sewer, water or other public conveniences or utilities on, in or over each Lot and such other areas as are shown on the plat of the Property or Additional Property recorded or to be recorded in the office of the Register of Deeds of the county where the Planned Community is located, the right to cut drain ways, swales and ditches for surface water whenever such action may appear to the Developer or the Association to be necessary in order to maintain reasonable standards of health, safety and appearance, the right to cut any trees, bushes or shrubbery, the right to make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance, and the right to locate wells, pumping stations, and tanks within residential areas, or upon any Lot with the permission of the owner of such Lot) No structures or plantings or other material shall be placed or permitted to remain upon such easement areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion. Any of such easement areas which are located upon a Lot (whether or not shown on the recorded plats for the Planned Community) and improvements within such areas shall be maintained by the respective Owner except those for which a public authority or utility company is responsible,

(b) easements over all private streets, if any, access easements, and Common Elements within the Planned Community as necessary to provide access, ingress and egress, to the Additional Property,

(c) an easement of unobstructed access over, on, upon, through and across each Lot and the Limited Common Elements located thereon, if any,

at all reasonable times to perform any maintenance and repair to the Limited Common Elements required by this Declaration. This easement shall also run in favor of the Association and the Association's agents, employees, successors and assigns.

SECTION 3. Other Easements. The following easements, in addition to any easements shown on the recorded plats of the Planned Community, are granted by Declarant to others:

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

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

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

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

ARTICLE III

RIGHTS OF DEVELOPER

The Declarant shall have, and there is hereby reserved to the Declarant, the Special Declarant Rights as herein defined and the following rights, powers and privileges which shall be in addition to the Special Declarant Rights and any other rights, powers and privileges reserved to the Declarant herein.

SECTION 1. The Architectural Control Committee. All duties and responsibilities conferred upon the Architectural Control Committee by this Declaration or the Bylaws of the Association shall be exercised and performed by

the Declarant or its designee, so long as Declarant shall own any Lot within the Property

SECTION 2 Plan of Development The right to change, alter or redesignate the allocated planned, platted, or recorded use or designation of any of the lands constituting the Planned Community including, but not limited to, the right to change, alter or redesignate road, utility and drainage facilities and easements and to change, alter or redesignate such other present and proposed amenities, Common Elements, or facilities as may in the sole judgment and discretion of Declarant be necessary or desirable. The Declarant hereby expressly reserves unto itself, its successors and assigns, the right to re-plat any one (1) or more Lots shown on the plat of any subdivision of the Property or Additional Property in order to create one or more modified Lots, to further subdivide tracts or Lots shown on any such subdivision plat into two or more Lots; to recombine one or more tracts or Lots or a tract and Lots to create a larger tract or Lot (any Lot resulting from such recombination shall be treated as one Lot for purposes of Assessments), to eliminate from this Declaration Lots that are not otherwise buildable or are needed or desired by Declarant for access or are needed or desired by Declarant for use as public or private roads or access areas, whether serving the Planned Community or other property owned by the Declarant or others, or which are needed for Common Elements or amenities, and to take such steps as are reasonably necessary to make such re-platted Lots or tracts suitable and fit as a building site or access area or roadway or Common Elements. The Declarant need not develop the Additional Property. The Additional Property shall not be subject to this Declaration unless Declarant expressly subjects it hereto by the filing of a supplemental declaration in the Register of Deeds office of the county where the Planned Community is located.

SECTION 3 Amendment of Declaration by the Declarant This Declaration may be amended without member approval by the Declarant, or the Board of the Association, as the case may be, as follows.

(a) in any respect, prior to the sale of the first Lot or with regard to the Additional Property,

(b) to correct any obvious error or inconsistency in drafting, typing or reproduction,

(c) to qualify the Association or the Property, or any portion thereof, for tax-exempt status,

(d) to incorporate or reflect any platting change as permitted by Section 2 of this Article or otherwise permitted herein,

(e) to conform this Declaration to the requirements of any law or

governmental agency having legal jurisdiction over the Property or any law or regulation relating to the control of property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such agency requesting or suggesting an amendment necessary to comply with the requirements of such agency shall be sufficient evidence of the approval of such agency, provided that the changes made substantially conform to such request or suggestion. The Declarant may at any time amend this Declaration to change the maximum allowable built-upon area as permitted by DENR. Notwithstanding anything else herein to the contrary, only the Declarant, during the Declarant Control Period, shall be entitled to amend this Declaration pursuant to this Section.

SECTION 4 Annexation of Additional Property Declarant may annex the Additional Property to and make it a part of the Planned Community without the assent of the Members so long as the Additional Property is used for residential purposes, roads, utilities, drainage facilities, amenities and other facilities related thereto for any property located within one (1) mile thereof. Annexation shall occur by the recording in the New Hanover County Registry of a supplemental declaration declaring that the Additional Property is subject to this Declaration. The Additional Property shall not be subject to or controlled by the terms of this Declaration until the recording of such supplemental declaration.

ARTICLE IV.

HOMEOWNERS' ASSOCIATION

SECTION 1 Formation of Association The Association shall be incorporated no later than the date the first Lot is conveyed. The Association shall be a nonprofit corporation organized pursuant to the Nonprofit Corporation Act of the State of North Carolina for the purpose of establishing an association for the Owners of Lots to operate and maintain the Common Elements and any Limited Common Elements in accordance with this Declaration, its Charter and Bylaws. The Association shall be empowered to perform and/or exercise those powers set forth in the Act as it may be amended from time to time, in addition to any powers and authority otherwise granted to it.

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

SECTION 3 Voting Rights The Association shall have two classes of voting Membership.

Class A Class A Members shall be all Owners, with

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

Class B So long as the Declarant owns a Townhome or any part of the Additional Property, the Declarant shall be a Class B Member and shall be entitled to three (3) votes for each Townhome shown on the above referenced plat and 3 votes for each of the three Townhomes planned for the Additional Property. If not earlier terminated, the Class B Membership shall cease and be converted to Class A Membership on December 31, 2023 or upon the voluntary surrender of all Class B Membership by the holder thereof.

The period during which there is Class B Membership is sometimes referred to herein as the "Declarant Control Period". During the Declarant Control Period, the Declarant shall have the right to designate and select the Executive Board of the Association and the right to remove any person or persons designated and selected by the Declarant to serve on the Executive Board, and to replace them for the remainder of the term of any person designated and selected by the Declarant to serve on the Executive Board who may resign, die, or be removed by the Declarant.

SECTION 4 Government Permits After completion of construction of any facilities authorized to be constructed by Declarant pursuant to permits, agreements, approved plans and easements for the Planned Community, all duties, obligations, rights and privileges of the Declarant under any water, sewer, stormwater, utility agreements, easements, permits with municipal or governmental agencies or public or private utility companies, shall be the duties, rights, obligations, privileges and the responsibility of the Association, notwithstanding that such agreements, easements or permits have not been assigned or the responsibilities thereunder specifically assumed by the Association. There are additional provisions made in this Declaration concerning stormwater facilities.

SECTION 5 Common Elements The Association shall at its sole cost and expense be responsible for the operation and maintenance of each Common Element within the Planned Community from the date of completion of its construction or improvement by the Developer, whether or not (i) such Common Element has actually been deeded to the Association, or (ii) any permit issued by a governmental agency to Declarant for the construction and operation of the

Common Element has been transferred from the Declarant to the Association or assumed by the Association. If the Declarant is required by any government agency to provide any operation or maintenance activities to a Common Element for which the Association is liable to perform such operation and maintenance pursuant to this section, then the Association agrees to reimburse the Declarant the cost of such operation and maintenance within 30 days after Declarant renders a bill to the Association therefor. The Association agrees to levy a Special Assessment within 30 days of receipt of such bill to cover the amount thereof if it does not have other sufficient funds available. Declarant shall be entitled to specific performance to require the Association to levy and collect such Special Assessment.

ARTICLE V

INSURANCE AND BONDS

SECTION 1 Insurance Commencing not later than the time of the first conveyance of a Lot to a Person that is not a Declarant, it shall be the duty of the Association to maintain in effect casualty and liability insurance as follows to the extent it is reasonably available:

(a) Amount and Scope of Insurance All insurance policies upon the Common Elements shall be secured by the Board of Directors, or its designee on behalf of the Association which shall obtain such insurance against (1) loss or damage by fire or other hazards normally insured against in an amount, after application of any deductibles, of not less than 80 percent of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date exclusive of land excavation, foundations and other items normally excluded from property policies, and (2) such other risks, including public liability insurance, as from time to time shall be customarily required by private institutional mortgage investors for projects similar in construction, location and use as the Planned Community and the improvements thereon for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and deaths of persons in connection with the operation, or maintenance or use of the Common Elements and legal liability arising out of lawsuits relating to employment contracts of the Association. If the insurance described in subsection (a) of this section is not reasonably available, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Lot Owners,

(b) Insurance Provisions The Board of Directors shall make diligent efforts to insure that said insurance policies provide for the following:

(1) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Lot Owners and their employees, agents, tenants and invitees;

(2) a waiver by the insurer of its right to repair and reconstruct instead of paying cash,

(3) coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty days prior written notice to the named insured and all mortgagees,

(4) coverage will not be prejudiced by act or neglect of the Lot Owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the Planned Community over which the Association has no control

(5) the master policy on the Planned Community cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Lot Owners,

(6) the master policy on the Planned Community cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured,

(7) each Lot Owner is an insured person under the policy to the extent of the Lot Owner's insurable interest,

(8) if at the time of a loss under the policy, there is other insurance in the name of a Lot Owner covering the same risk covered by

the policy, the Association's policy provides primary insurance

(c) Premiums All premiums on such insurance policies and any deductibles payable by the Association upon loss shall be a common expense,

(d) Proceeds All insurance policies purchased pursuant to these provisions shall provide that all proceeds thereof shall be payable to the Board as insurance trustee or to such attorney-at-law or institution with trust powers as may be approved by the Board of Directors who shall hold any such insurance proceeds in trust for Lot Owners and lien holders as their interest may appear;

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

(f) Individual Policies Lot Owners shall purchase insurance policies covering each Lot and Lot Owner individually shall purchase individual policies under such terms and conditions as the Association may prescribe. The Association shall be named as additional insured on each policy and each Lot shall be insured for its full replacement value,

(g) Distribution of Insurance Proceeds Subject to the provisions of Section 47F-3-113(g) of the Act the proceeds of insurance policies shall be distributed to or for the benefit of the beneficial owners in the following manner

(1) all reasonable expenses of the insurance trustee shall be first paid or provision may therefor,

(2) the remaining proceeds shall be used to defray the cost of repairs for the damage or reconstruction for which the proceeds are paid. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners, including lienholders of record, or retained by the Association for such

common expenses or purposes as the Board shall determine.

SECTION 2 Fidelity Bond The Association may maintain blanket fidelity bonds for all officers, directors, employees and all other persons handling or responsible for funds of the Association, provided, however, that if the Association shall delegate some or all of the responsibility for the handling of its funds to a management agent, such fidelity bonds shall be maintained by such management agent for its officers, employees and agents handling or responsible for funds of or administered on behalf of the Association

ARTICLE VI.

COVENANTS FOR ASSESSMENTS

SECTION 1 Creation of the Lien and Personal Obligation of Assessments. Each Lot Owner covenants and agrees to pay to the Association the following assessments (collectively the "Assessments")

- (a) Annual Assessments,
- (b) Special Assessments,
- (c) Insurance Assessments,
- (d) Ad Valorem Tax Assessments, and
- (e) Working Capital Assessments

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

SECTION 2 Purpose of Annual Assessments The Annual Assessments levied by the Association shall be used exclusively to promote the

recreation, health, safety and welfare of the Owners and residents of the Property and Additional Property and for the maintenance, repair, improvement and replacement of the Common Elements and the Limited Common Elements. The funds arising from said assessments or charges, may be used for any or all of the following purposes: Operations, maintenance and improvement of the Common Elements, and the Limited Common Elements, including payment of utilities, enforcing this Declaration, paying taxes, insurance premiums, legal and accounting fees and governmental charges; establishing working capital; paying dues and assessments to any organization or other association of which the Association is a member, and in addition, doing any other things necessary or desirable in the opinion of the Executive Board to keep the Common Elements and Limited Common Elements in good operating order and repair.

SECTION 3. Annual Assessments The Executive Board shall adopt a proposed annual budget at least 90 days before the beginning of each fiscal year. Within 30 days after adoption of the proposed budget for the Planned Community, the Executive Board shall provide to all of the Lot Owners a summary of the budget and notice of a meeting to consider its ratification, including a statement that the budget may be ratified without a quorum. The budget is ratified unless at the meeting a majority of all of the Lot Owners in the Association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Lot Owners shall be continued until such time as the Lot Owners ratify a subsequent budget proposed by the Executive Board. The Annual Assessment for each Lot shall be established based on the annual budget thus adopted, provided, however, that the first Annual Assessment shall be set by the Declarant prior to the conveyance of the first Lot to an Owner. The due date for payment shall be established by the Executive Board. The Executive Board shall have the authority to require the assessments to be paid in periodic installments. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

SECTION 4. Special Assessments In addition to the Annual Assessments authorized above, the Association may levy, in any assessment

year, a Special Assessment applicable to the year only for the following purposes:

A. To defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements and any Limited Common Elements, including fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-thirds (2/3) of the Members of each class who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of any meeting of Owners called for the purpose of approving such Special Assessment shall be sent to all Members not less than ten (10) days nor more

than sixty (60) days in advance of the meeting

B Without a vote of the Members, to provide funds to reimburse the Declarant as provided for in Article IV, Section 5, hereof

SECTION 5 Insurance Assessments All premiums on insurance policies purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a Common Expense, and the Association may in any assessment year levy against the Owners equally an "Insurance Assessment", in addition to the Annual Assessments, which shall be in an amount sufficient to pay the annual cost of all such deductibles and insurance premiums not included as a component of the Annual Assessment

SECTION 6 Ad Valorem Tax Assessments All ad valorem taxes levied against the Common Elements, if any, shall be a Common Expense, and the Association may in any assessment year levy against the Owners equally an "Ad Valorem Tax Assessment", in addition to the Annual Assessments, which shall be in an amount sufficient to pay such ad valorem taxes in such year not included as a component of the Annual Assessment

SECTION 7. Working Capital Assessments At the time title to a Lot is conveyed to an Owner by Declarant, the Owner shall pay the sum of \$300 00 to the Association as working capital to be used for operating and capital expenses of the Association. Amounts paid into the working capital fund are not to be considered as advance payment of the Annual or any other assessments

SECTION 8 Rate of Assessment The Association may differentiate in the amount of Assessments charged when a reasonable basis for distinction exists, such as between vacant Lots of record and Lots of record with completed dwellings for which certificates of occupancy have been issued by the appropriate governmental authority, or when any other substantial difference as a ground of distinction exists between Lots. However, Assessments must be fixed at a uniform rate for all Lots similarly situated

SECTION 9 Commencement of Assessments Assessments for each Lot shall commence upon the date of acceptance by an Owner of a deed from Declarant

SECTION 10 Effect Of Nonpayment of Assessments And Remedies Of The Association Any Assessment or installment thereof not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowable by law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Elements or abandonment of his Lot. All unpaid installment payments of Assessments shall

become immediately due and payable if an Owner fails to pay any installment within the time permitted. The Association may also establish and collect late fees for delinquent installments.

SECTION 11 Lien for Assessments The Association may file a lien against a Lot when any Assessment levied against said Lot remains unpaid for a period of 30 days or longer.

(a) The lien shall constitute a lien against the Lot when and after the claim of lien is filed of record in the office of the Clerk of Superior Court of the county in which the Lot is located. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. Fees, charges, late charges, fines, interest, and other charges imposed pursuant to Sections 47F-3-102, 47F-3-107, 47F-3-107A and 47F-3-115 of the Act are enforceable as Assessments.

(b) The lien under this section shall be prior to all liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of lien in the office of the Clerk of Superior Court, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot.

(c) The lien for unpaid assessments is extinguished unless proceedings to enforce the tax lien are instituted within three years after the docketing of the claim of lien in the office of the Clerk of Superior Court.

(d) Any judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party.

(e) Where the holder of a first mortgage or deed of trust of record, or other purchaser of a Lot obtains title to the Lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors and assigns shall not be liable for the Assessments against the Lot which became due prior to the acquisition of title to the Lot by such purchaser. The unpaid Assessments shall be deemed to be Common Expenses collectible from all of the Lot Owners including such purchaser, its heirs, successors and assigns.

(f) A claim of lien shall set forth the name and address of the Association, the name of the record Owner of the Lot at the time the claim of lien is filed, a description of the Lot, and the amount of the lien claimed.