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 Pitt County, NC
 Deborah T Barrington REG OF DEEDS
 BK 2832 PG 858-863

AMENDMENT TO DECLARATION
FOR GREYFOX RUN HOLLOWES AND WOODLANDS

STATE OF NORTH CAROLINA
COUNTY OF PITT

THIS AMENDMENT TO DECLARATION FOR GREYFOX RUN HOLLOWES AND WOODLANDS ("Amendment") is made this 1st day of February, 2011 by BILL CLARK HOMES OF GREENVILLE, LLC (hereinafter "Declarant").

WITNESSETH:

WHEREAS, Declarant caused to be recorded the Declaration for Greyfox Run Hollowes And Woodlands in Book 2560, at Page 223 in the office of the Register of Deeds of Pitt County, North Carolina (as amended and supplemented, the "Declaration"); and

WHEREAS, as set forth in Article 16, Section 16.1 of the Declaration, the Declarant may unilaterally amend the Declaration for any purpose until the termination of the Development Period; and

WHEREAS, the Development Period has not terminated, and Declarant desires to amend the Declaration.

NOW, THEREFORE, Declarant, acting pursuant to the provisions of Article 16, Section 16.1 of the Declaration, does hereby amend the Declaration as follows:

Prepared by **WARD AND SMITH, P.A.**, University Corporate Center, 127 Racine Drive, Post Office Box 7068, Wilmington, NC 28406-7068

Please return to **WARD AND SMITH, P.A.**, University Corporate Center, 127 Racine Drive, Post Office Box 7068, Wilmington, NC 28406-7068
Attention: Justin M. Lewis

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1. Article 9, Section 9.1 is deleted in its entirety and the following is inserted in lieu thereof:

Section 9.1 Upkeep of Common Elements. Subject to Section 9.3 below, the Association shall be responsible for the management and Upkeep of all of the Common Elements, which Upkeep shall be consistent with the community-wide standard established by the Association. The Executive Board shall provide for the Upkeep of the rights-of-way along dedicated streets and roadways and dedicated public easements.

2. Article 9, Section 9.2(3)(a) is amended by deleting the first paragraph in its entirety and inserting the following in lieu thereof;

Notwithstanding the provisions of Subsections 9.2(1) and (2) above, the Association shall not be responsible for, nor bear the cost of the Upkeep of any Landscaping installed subsequent to the installation of the original Landscaping on the Lot as approved by the ARC (as defined in Article 11 herein).

3. Article 9 is further amended by adding the following section:

Section 9.3 Damage by Owners. Whenever the Upkeep of any property and/or improvements that the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of an Owner, his family, tenants, guests, or invitees, and the insurance maintained by the Association covers such loss or damage, the proceeds of the insurance received by the Association shall be used for the purpose of making such Upkeep and the Owner who is responsible for the act causing the damage (whether done by himself or his family, tenants, guests, or invitees, without regard to whether the Owner or his family, tenants, guests, or invitees were negligent) shall be required to pay all other costs of such Upkeep including, without limitation, the amount of any insurance deductibles.

Whenever the Upkeep of any property and/or improvements that the Association is obligated to maintain, replace, or repair at its expense is occasioned by an act of an Owner, his family, tenants, guests, or invitees, and such loss or damage is not covered by any insurance maintained in force by the Association (or whenever said loss or damage is less than the amount of the applicable insurance deductible), the Owner who is responsible for the act causing the damage (whether done by himself or his family, tenants, guests, or invitees, without regard to whether the Owner or his family, tenants, guests, or invitees were negligent) shall be required to pay

the cost of such Upkeep. Establishment of liability for damage caused by the Owner or the Association is subject to the provisions of N.C. Gen. Stat. § 47F-3-107(d).

Whenever the Upkeep of a Dwelling Unit or Lot, for which the Association is not obligated to maintain, replace or repair at its expense, is occasioned by an act of an Owner, his family, tenants, guests, or invitees, the Owner who is responsible for the act causing the damage (whether done by himself or his family, tenants, guests, or invitees, without regard to whether the Owner or his family, tenants, guests, or invitees were negligent) shall be required to pay the uninsured cost of such Upkeep to the Owner of the damaged Dwelling Unit or Lot, including, without limitation, the amount of any insurance deductibles.

4. Article 9 is further amended by changing the section numbering of "Section 9.3 Additions, Alterations or Improvements by the Owners" to "Section 9.4" and by changing the section numbering of "Section 9.4 Disclaimer of Liability" to "Section 9.5".

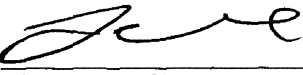
5. Article 12, Section 12.1(4) is amended by deleting Section 12.1(4) in its entirety and inserting the following in lieu thereof:

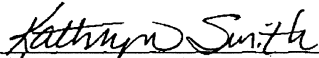
The deductible, if any, on any insurance policies purchased and maintained by the Executive Board shall be paid by the Association as a Common Expense. In the event that the cause of any damage or destruction to any portion of a Dwelling Unit, Lot or Common Element originated in or through a Dwelling Unit or any component thereof, then the Owner of said Dwelling Unit shall pay the deductible under the Association's policy whether done by himself or his family, tenants, guests, or invitees, and without regard to whether the Owner or his family, tenants, guests, or invitees were negligent. If an Owner fails to pay the deductible and the Association pays the deductible cost owed by the Owner, then the deductible cost paid by the Association shall be charged to the Dwelling Unit as an assessment for which the Association shall have a lien consistent with Section 8.7 herein.

6. Except as expressly provided in the paragraphs above, the terms and provisions of the Declaration shall continue in full force and effect according to the terms of the same as modified hereby.

IN TESTIMONY WHEREOF, Declarant has caused this Amendment to be executed under seal and in such form as to be legally binding all by authority duly given this the day and year first above written.

BILL CLARK HOMES OF GREENVILLE, LLC (SEAL)

By: 
Lance L. Clark, Manager

By: 
Kathryn Smith, Manager

STATE OF North Carolina
COUNTY OF Pitt

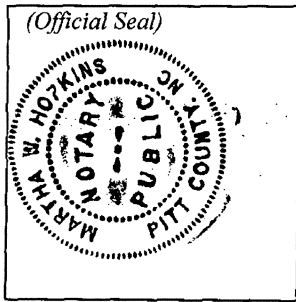
I certify that the following person personally appeared before me this day, acknowledging to me that he/she signed the foregoing document for the purpose(s) stated therein, in the capacity indicated therein: Lance L. Clark, manager Mth.

Date: 2/4/11

Martha W. Hopkins
Signature of Notary Public

Martha W. Hopkins
Notary's printed or typed name

My commission expires: July 6, 2013



Notary seal or stamp must appear within this box.

STATE OF North Carolina
COUNTY OF Pitt

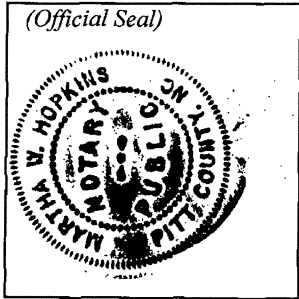
I certify that the following person personally appeared before me this day, acknowledging to me that he/she signed the foregoing document for the purpose(s) stated therein, in the capacity indicated therein: Kathryn Smith, Manager

Date: 2/4/11

Martha W. Hopkins
Signature of Notary Public

Martha W. Hopkins
Notary's printed or typed name

My commission expires: July 6, 2013



Notary seal or stamp must appear within this box.

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Pitt County, NC
Judy J. Tart Register of Deeds
BK **2560** PG **223-282**

File: Scott Browning

**DECLARATION FOR
GREYFOX RUN HOLLOW AND WOODLANDS**

**BILL CLARK HOMES OF GREENVILLE, LLC
DECLARANT**

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG
OF THE UNITED STATES OF AMERICA OR THE STATE OF NORTH CAROLINA.
THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY
OF POLITICAL SIGNS.**

DECLARATION FOR GREYFOX RUN HOLLOWES AND WOODLANDS

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DECLARATION FOR
GREYFOX RUN HOLLOW AND WOODLANDS

This Declaration made and entered into as of the ____ day of _____, 2008, by and between BILL CLARK HOMES OF GREENVILLE, LLC, (hereinafter "Declarant and Land Owner"); and ALL PROSPECTIVE PURCHASERS AND OWNERS of real property within the planned community known as "GREYFOX RUN HOLLOW AND WOODLANDS";

WITNESSETH:

WHEREAS, Declarant and Land Owner own in fee simple the real estate designated as Submitted Property and described on Exhibit A to this Declaration and have elected to subject the Submitted Property to the provisions of Chapter 47F of the General Statutes of North Carolina, and to certain covenants, restrictions, reservations, easements, servitudes, liens and charges, all of which are more particularly set forth hereinafter;

→ PUD

WHEREAS, Declarant currently owns fee simple title to other real estate and may acquire fee simple title to other real estate, both of which are defined hereinafter as Additional Property, and may hereafter elect to subject all or any portion of the Additional Property to the provisions of this Declaration;

WHEREAS, Declarant and Land Owner deem it desirable and in the best interests of all the prospective purchasers and owners of the real estate subject to this Declaration to protect the value and desirability of such real estate by providing for the development of such real estate in accordance with a common plan and the maintenance of certain shared facilities; and,

WHEREAS, to provide a means for meeting the purposes and intents set forth herein, Declarant has caused to be created GREYFOX RUN HOLLOW AND WOODLANDS Owners Association, a nonprofit corporation incorporated under Chapter 55A of the General Statutes of North Carolina (North Carolina Nonprofit Corporation Act).

NOW, THEREFORE, Declarant and Land Owner hereby covenant and declare, on behalf of themselves and their successors and assigns, that the real estate designated as Submitted Property in Exhibit A hereto shall, from the date this Declaration is recorded in the Register of Deeds be held, conveyed, acquired and encumbered subject to the Act and the terms

and provisions hereof, all of which shall run with the real estate and bind and inure to the benefit of all prospective purchasers and parties who may acquire any right, title, estate or interest in or to any of such real estate or who may acquire any right of occupancy or entrance upon any portion thereof, all subject to the right of Declarant or the Association to amend this Declaration according to its terms and to add all or any portion of the Additional Property to be subject to this Declaration.

ARTICLE 1
DEFINITIONS

Capitalized terms used throughout this Declaration shall have the meanings specified for such terms below unless the context otherwise requires:

Section 1.1 Act. Act means Chapter 47F of the General Statutes of North Carolina designated as the North Carolina Planned Community Act.

Section 1.2 Additional Property. Additional Property means any property Declarant may submit to the Declaration and the jurisdiction of the Association pursuant to Article 6.

Section 1.3 Articles or Articles of Incorporation. Articles or Articles of Incorporation means the Articles of Incorporation of GREYFOX RUN HOLLOWES AND WOODLANDS Owners Association, as may be amended from time to time.

Section 1.4 Association. Association means GREYFOX RUN HOLLOWES AND WOODLANDS Owners Association.

Section 1.5 Association Documents. Association Documents means collectively the Articles of Incorporation, this Declaration, the Bylaws, Rules and Regulations, Architectural Guidelines (defined in Article 11 herein), and any resolutions adopted by the Executive Board, all as may be amended, restated and revised from time to time. Any exhibit, schedule or amendment to an Association Document shall be considered a part of that document.

Section 1.6 Bylaws. Bylaws means the Bylaws of GREYFOX RUN HOLLOWES AND WOODLANDS Owners Association.

Section 1.7 Common Elements. Common Elements means any real estate within the Property owned or leased by the Association other than a Lot or dedicated to a

municipality or the State of North Carolina and, any and all personal property, equipment and fixtures owned, leased, maintained or operated by the Association for the benefit of the Property or the Owners. Notwithstanding this definition, to the extent that the provisions of the Act apply to "Common Elements", including, without limitation, the provisions of Section 47F-3-112, those provisions shall apply only to "Common Elements" as defined in the Act.

Section 1.8 Common Expenses. Common Expenses means expenditures made by or financial obligations or liabilities of the Association, together with any allocations to reserves.

Section 1.9 Common Expense Liability. Common Expense Liability means the liability for Common Expenses allocated to each Lot pursuant to Section 8.2.

Section 1.10 Declarant. Declarant means Bill Clark Homes of Greenville, LLC, a North Carolina limited liability company, its successors or assigns.

Section 1.11 Declaration. Declaration means this Declaration for GREYFOX RUN HOLLOW AND WOODLANDS and all amendments, restatements and revisions hereto, including all amendments to the Declaration amending the provisions herein submitting Additional Property to the terms of this Declaration and the jurisdiction of the Association.

Section 1.12 Development Period. Development Period means the period ending on the earliest of:

(a) Twenty-Five (25) years from the date this Declaration is recorded in the Register of Deeds; provided, that if Declarant is delayed in the improvement and development of the Property as a result of a sewer, water or building permit moratorium or other cause or event beyond Declarant's control, then the aforesaid period shall be extended for the length of the delay plus an additional two (2) years upon written notice to the Association of such extension;

(b) Or the date specified by Declarant in a written notice to the Association that the Development Period is to terminate on that date.

Section 1.13 Director. Director means a member of the Executive Board of the Association.

Section 1.14 Dwelling Unit. Dwelling Unit means any building or structure or portion of a building or structure situated upon a Lot which is intended for use and occupancy as a residence for a single family.

Section 1.15 Executive Board or Board. Executive Board or Board means the executive and administrative entity established by the Articles and the Bylaws to act on behalf of the Association and function as the governing body of the Association.

Section 1.16 Land Owner. Land Owner means Bill Clark Homes of Greenville, LLC, a North Carolina limited liability company, its successors and assigns.

Section 1.17 Landscaping. Landscaping means living plants, shrubs, trees, vegetation, ground coverings (including grass and sod), appurtenant live/growing vegetative materials, straw, mulches, composting materials, pools (other than swimming pools), ornamental ponds, ornamental structures and any other living or non-living material or structure reasonably constituting a part of any or all of the foregoing installed upon a Lot.

Section 1.18 Limited Common Elements. Limited Common Elements are a portion of the Common Elements allocated by this Declaration, operation of law, or designated on any recorded maps or plats of the Property for the exclusive use of one (1) or more but fewer than all of the Lots.

Section 1.19 Lot. Lot means a separately numbered or designated portion of the Property (but not including the real estate designated as Common Elements) on plats of the Property recorded in the Register of Deeds.

For all purposes set forth in the Association Documents, a Lot comes into existence on the later of the recordation in the Register of Deeds of (i) a map or plat depicting said Lot, or (ii) an amendment to this Declaration defining and subjecting the proposed Lot to this Declaration.

Section 1.20 Majority Vote. Majority Vote means a simple majority (more than fifty percent (50%)) of the votes actually cast in person or by proxy at a duly held meeting of the members of the Association at which a quorum is present or at a duly held meeting of the Executive Board at which a quorum is present.

Section 1.21 Member. Member means a Person having membership in the Association consistent with Section 3.2 of this Declaration.

Section 1.22 Mortgagee. Mortgagee means an institutional lender (commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies and any other lender regularly engaged in financing the purchase, construction or improvement of real estate, or any assignee of loans made by such lenders) holding a first mortgage or first deed of trust ("Mortgage") encumbering a Lot.

Section 1.23 Owner. Owner means the Owner as shown by the records/deeds in the Register of Deeds or Clerk of Superior Court, whether one or more Persons, of a fee or undivided fee interest in a Lot in fee simple, but does not mean any Person having an interest in a Lot solely by virtue of a contract of purchase or as security for an obligation.

Section 1.24 Person. Person means one or more natural persons, corporations, partnerships, limited liability companies, trusts or other entities capable of holding title to real estate.

Section 1.25 Property. Property means, at any given time, the real estate then subject to this Declaration and includes all improvements and appurtenances thereto now or hereafter existing.

Section 1.26 Register of Deeds. Register of Deeds means the office of the Register of Deeds of Pitt County, North Carolina.

Section 1.27 Rules and Regulations. Rules and Regulations means the rules and regulations governing the use, occupancy, operation and physical appearance of the Property adopted from time to time by the Board.

Section 1.28 Submitted Property. Submitted Property means the real estate designated as such in Exhibit A hereto and all real estate which is from time to time submitted to the Declaration.

Section 1.29 Upkeep. Upkeep means care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

Section 1.30 Utility Company. Utility Company shall mean a public or private company or entity duly licensed and authorized by the North Carolina Utilities Commission to provide utility services within a specified franchise area and any entity providing utility services on behalf of a body politic, municipality or other governmental body or entity.

Any capitalized word or term used in this Declaration, but not defined herein, shall have the meaning as set forth in N.C. Gen. Stat. § 47F-1-103, unless it is plainly evident from the context of this Declaration that a different meaning is intended.

ARTICLE 2

CONSTRUCTION OF ASSOCIATION DOCUMENTS

Section 2.1 Caption. The captions are inserted only as a matter of convenience and for reference and do not define, limit or describe the scope of the Article, Section, Subsection or any other portion of this Declaration.

Section 2.2 Severability. Each provision of the Association Documents is severable from every other provision and the validity of any one or more provisions shall not change the meaning of or otherwise affect any other provision.

Section 2.3 Interpretation. If there is any conflict between the Association Documents, the Declaration shall control. Particular provisions shall control over general provisions. The provisions of the Bylaws shall control over any conflicting provision of any Rules and Regulations or resolutions adopted pursuant to any of the Association Documents.

ARTICLE 3

GREYFOX RUN HOLLOW AND WOODLANDS OWNERS ASSOCIATION

Section 3.1 The Association. The Association is a nonprofit corporation organized and existing pursuant to Chapter 55A of the General Statutes of North Carolina charged with the duties and vested with the powers prescribed by law and set forth in the Association Documents.

Section 3.2 Membership. Members of the Association shall at all times be, and shall be limited to, the Persons who constitute Owners of the Lots. If more than one (1) Person owns a Lot, then all of the Persons who own such Lot shall constitute collectively one (1) Owner. However, if more than one (1) Person owns a Lot, then each such Person is a Member of

the Association; provided that multiple Members who own one (1) Lot are entitled collectively to one (1) vote for each Lot owned. Each Person who is an Owner is entitled to attend all meetings of the Association.

Membership in the Association is mandatory. Upon acquiring title to a Lot, each new Owner shall immediately give written notice to the Secretary of the Association stating the name and address of such new Owner and the Lot acquired by such new Owner. If the new Owner fails to give the Secretary such notice within thirty (30) days of acquiring title to such Lot, then the costs of locating each new Owner and reasonable record keeping costs incurred by the Association may be assessed against such Owner.

Membership in the GreyFox Run Clubhouse and Pool Association is mandatory. Upon acquiring title to a Lot, each new Owner shall immediately give written notice to the Secretary of the GreyFox Clubhouse and Pool Association stating the name and address of such new Owner and the Lot acquired by such new Owner. If the new Owner fails to give the Secretary such notice within thirty (30) days of acquiring title to such Lot, then the costs of locating each new Owner and reasonable record keeping costs incurred by the Association may be assessed against such Owner.

Section 3.3 Board Authority to Act. Unless otherwise specifically provided in the Association Documents, all rights, powers, and duties of the Association may be performed by the Board on behalf of the Association.

Section 3.4 Declarant's Disapproval Right. As is more particularly set forth in Article 7, until the expiration of the Development Period, Declarant shall be vested with the sole and exclusive right to disapprove any action or decision of the Association on any and all matters, except such matters as to which the Act explicitly requires a vote of the Members.

ARTICLE 4

COMMON ELEMENTS

Section 4.1 Conveyance and Title. Land Owner shall convey the Common Elements to the Association in fee simple released from any encumbrance securing the

repayment of monetary obligations incurred by Land Owner, but subject to all easements and other encumbrances appearing of the public records including those created by this Declaration. The conveyance of the Common Elements as contemplated herein shall occur prior to or simultaneously with the conveyance of the first Lot to an Owner.

The Association shall accept title to real estate and personal property offered to the Association by Land Owner and Declarant.

Section 4.2 No Dedication. Nothing contained herein shall be construed as a dedication to public use or as an assumption of responsibility for Upkeep of any Common Elements by any public or municipal agency, authority or utility, nor shall it be constructed to prevent the Board from permitting public access to or use of any Common Elements.

Section 4.3 Regulation of Common Elements. The Association shall have the right to regulate the use of the Common Elements pursuant to the Act and Section 10.2 hereof and to charge fees for the use thereof. In the event the Association imposes fees for the use of the Common Elements, such fees to be charged to Persons entitled to use the Common Elements shall be uniform and shall not discriminate against any one or more Persons or groups of Persons entitled to use the Common Elements. The Association may also mortgage, dedicate, convey, grant easements and other use or possessory rights in, over, under and across the Common Elements as permitted in the Act.

ARTICLE 5

EASEMENTS

Section 5.1 Development Easements.

(1) Easements Reserved to Declarant.

(a) Easement to Facilitate Development. Declarant hereby reserves to itself and its designees and Land Owner hereby grants a nonexclusive blanket easement to Declarant over and through the Property and Common Elements for all purposes reasonably related to the development, completion, maintenance, and Upkeep of improvements on the Property and Common Elements, including without limitation: (i) temporary slope and construction easements; (ii) drainage, erosion control, and storm and sanitary sewer easements (including the right to cut or remove trees, bushes or shrubbery, to regrade the soil and to take

any similar actions reasonably necessary; provided, however, that thereafter Declarant shall restore the affected area as near as practicable to its original condition); and (iii) the construction, installation and Upkeep of improvements on the Property and Common Elements, or reasonably necessary to serve the same.

(b) Easement to Facilitate Sales. Declarant hereby reserves to itself and its designees and Land Owner hereby grants the right to Declarant to: (i) use any Lots owned by Declarant, any other Lot with the written consent of the Owner thereof, or any portion of the Common Elements as models, management offices, sales offices, a visitors' center, construction offices, or sales office parking areas; (ii) place and maintain, in any location on the Common Elements and on any Lot, street and directional signs, temporary promotional signs, plantings, street lights, entrance features, lighting, stone, wood or masonry walls or fences and other related signs and landscaping features; provided, however, that all signs shall comply with applicable governmental regulations and Declarant shall obtain the consent of the Owner of any Lot upon which the improvements are to be located; and (iii) relocate, within the areas permitted by this paragraph, or remove all or any of the above from time to time at Declarant's sole discretion. These rights and easements shall continue throughout the Development Period.

(c) Easement for Utilities and Related Services. Declarant hereby reserves to itself and its assignees and Land Owner hereby grants to Declarant, during the Development Period, the right to grant and reserve easements, rights of way and licenses, over, through, upon and under the Property and the Common Elements for ingress, egress, installation and Upkeep of equipment for providing to any portion of the Property, Common Elements or Additional Property any utilities including, without limitation, water, sewer, drainage, gas, electricity, communication services, whether public or private, or for any other purpose necessary or desirable. Any pipes, conduits, lines, wires, transformers and any other apparatus necessary for the provision or metering of any utility may be installed, maintained or relocated where initially installed with the permission of Declarant, where contemplated on any site plan approved by Declarant.

(d) Easements for Future Access and Utilities. Declarant hereby reserves for itself, its successors and assigns and Land Owner hereby grants to Declarant,

non-exclusive easements across, under, over and upon the Common Elements for (i) ingress, egress and regress for pedestrian and vehicular access to and from the Additional Property, and (ii) the installation, maintenance and provision of utilities including, without limitation, water, sewer, drainage, gas, electricity, communication services, whether public or private, or for any other purposes necessary or desirable for the orderly development of the Additional Property.

(e) Dedications and Easements Required by Governmental Authority.

Declarant hereby reserves to itself and its designees and Land Owner hereby grants to Declarant, during the Development Period, the right to make any dedications and to grant any easements, rights-of-way and licenses required by any government or governmental agency over and through all or any portion of the Common Elements or the Property.

(2) Further Assurances. Any and all conveyances made by Declarant or Land Owner to the Association with respect to any of the Common Elements or the Property shall be conclusively deemed to incorporate these reservations of rights and easements, whether or not set forth in such grants. Upon written request of Declarant, the Association and each Owner shall from time to time execute, acknowledge and deliver to Declarant such further assurances of these reservations of rights and easements as may be requested.

(3) Assignment of Development Rights. Declarant may assign its rights under Section 5.1, or share such rights with, one or more other Persons, exclusively, simultaneously or consecutively with respect to Additional Property owned by Declarant or such Persons. Declarant shall notify the Association of any such assignment or designation by Declarant.

Section 5.2 Easement for Upkeep.

(1) Association Access. Declarant, on behalf of itself and its successors and assigns, hereby grant the right of access over and through any Lot to the Association and any other Person authorized by the Executive Board, in the exercise and discharge of their respective owners and responsibilities, including without limitation to make inspections, correct any condition originating in a Lot or in the Common Elements threatening another Lot or the Common Elements, correct drainage, perform installations or Upkeep of utilities, landscaping or other improvements located on the Property for which the Association is responsible for Upkeep, or correct any condition which violates the Association Documents. The agents, contractors,

officers and directors of the Association may enter any area of any Lot in order to utilize or provide for the Upkeep of the areas subject to easements granted in this Article to the Association.

(2) Declarant Access. Until the expiration of any applicable warranty period, Declarant hereby reserves to itself and its designees, and Land Owner hereby grants to Declarant, a right of access over and through the Common Elements and any Lot to perform warranty-related work within the Common Elements or the Lots. Declarant may assign its rights under this subsection to, or share such rights with, one or more other Persons, exclusively, simultaneously or consecutively.

Section 5.3 Limitations on Exercise of Rights and Easements.

(1) These easements are subject to all other easements and encumbrances of record in the office of the Register of Deeds, including those created by this Declaration.

(2) Declarant or the Association, as appropriate, when exercising the rights and easements granted by this Article, shall: (i) give reasonable prior notice to all affected Owners, unless an emergency exists which precludes such notice; (ii) minimize any economic or aesthetic injury to the affected Lots or the Common Elements; and (iii) not unreasonably interfere with the affected Owners' use, enjoyment and benefit from such Owners' Lots or the Common Elements.

(3) If an easement is relocated, the cost of such relocation shall be paid by the Person requesting the relocation.

(4) Any damage resulting from the exercise of the aforesaid rights and easements shall be promptly repaired and the site restored to the extent practicable by Declarant or the Association, as appropriate, or at the option of Declarant or the Association, the party responsible for such damage. In either case, the cost of such repair and restoration shall be paid for by the party responsible for the damage.

Section 5.4 Emergency Access. Declarant and Land Owner, on behalf of themselves and their successors and assigns, hereby grant an easement (1) to all police, fire, ambulance and other rescue personnel over and through all or any portion of the Property for the lawful performance of their functions during emergencies and (2) to the Association over and

through all Lots, if emergency measures are required in any Lot to reduce a hazard thereto or to any other portion of the Property. The Association is hereby authorized but not obligated to take any such measures.

Section 5.5 Easement for Use of Common Elements.

(1) Use and Enjoyment. Land Owner and Declarant hereby grant, and Declarant hereby reserves to itself and, on behalf of itself and its successors and assigns, to each Owner and each Person lawfully occupying a Lot a non-exclusive right and easement of use and enjoyment in common with others of the Common Elements. Such right and easement of use and enjoyment shall be appurtenant to each Lot, whether or not mentioned in the deed thereto. Any purported conveyance or other transfer of such rights and easements without the Lot to which such rights and easements are appurtenant shall be void.

(2) Vehicle and Pedestrian Access. Land Owner and Declarant hereby grant, and Declarant hereby reserves on behalf of itself and its successors and assigns during the Development Period and for so long as Declarant is an Owner, to each other Owner and each Person lawfully occupying a Lot a non-exclusive easement over all roadways, driveways, walkways, and pathways on the Common Elements for the purpose of vehicular and/or pedestrian access, ingress and egress, as appropriate, to any portion of the Property to which such Person has the right to go, subject to any Rules and Regulations promulgated by the Association. Any purported conveyance or other transfer of such rights and easements without the Lot to which such right and easement are appurtenant shall be void.

(3) Limitations. The rights and easements of enjoyment created hereby shall be subject (in addition to any easements granted or reserved in this Declaration or pursuant to the other Association Documents) to all rights and powers of Declarant and the Association when exercised in accordance with the other applicable provisions of the Association Documents, including without limitation the Association's right to regulate the use of the Common Elements and to establish reasonable charges therefor, to grant easements across the Common Elements, to dedicate portions of the Common Elements and to mortgage the Common Elements.

(4) Delegation. Subject to the Rules and Regulations or such other restrictions as adopted by the Association, any Person having the right to use and enjoy the

Common Elements may delegate such rights to such Person's guests, tenants, agents and invitees and to such other Persons as may be permitted by the Association.

Section 5.6 Easements for Encroachments.

(1) General Encroachments. If any improvement on the Property now or hereafter encroaches on any other portion of the Property by reason of (1) the original construction thereof, (2) deviations within normal construction tolerances in the Upkeep of any improvement, or (3) the settling or shifting of any land or improvement, an easement is hereby granted to the extent of any such encroachment for the period of time any encroachment exists. The Owner of the encroaching improvement shall also have an easement for the limited purpose of Upkeep of the encroaching improvement. This easement does not relieve any Owner or any other Person from liability for such Owner's or other Person's negligence or willful misconduct.

(2) Roof or Eave Overhang. If the original design and construction of any improvements on a Lot shall result in an encroachment by a roof or eave over and upon the Common Elements or an adjacent Lot, an easement is hereby granted to the extent of any such encroachment for the period of time such encroachment exists, which easement shall continue upon any reconstruction or repair of the Improvements in accordance with the original design and construction.

Section 5.7 Easement for Support. To the extent that any portion of the Property now or hereafter supports or contributes to the support of any other portion of the Property, the former is hereby burdened with an easement for the lateral and subjacent support of the latter.

Section 5.8 Priority and Enforcement of Easements.

(1) No Person who owns Property subject to this Declaration may subordinate the easements herein created to any subsequent encumbrance.

(2) The easements and rights granted by this Declaration shall not be enforceable by Persons to whom such easements and rights may be delegated by Owners, including without limitation the guests, tenants, agents or invitees of any Owner. This section does not affect, however, court-appointed officers in possession and control of a Lot acting in the

name, place and stead of Owners or any Person's right to enforce any easements or rights granted in any lease or agreement between such Person and an Owner.

ARTICLE 6

DEVELOPMENT OF THE PROPERTY

Section 6.1 Expansion by Declarant.

(a) Declarant hereby reserves an option during the Development Period to expand the Property from time to time without the consent of any Owner or Mortgagee by submitting any additional real estate ("Additional Property") to the provisions of this Declaration and the jurisdiction of the Association whether or not such real estate is owned by Declarant. The option to expand prior to the end of the Development Period may be terminated only upon the recordation of an instrument in the Register of Deeds by Declarant relinquishing such option. Declarant shall add Additional Property in accordance with the procedures set forth in Section 6.2 hereof. There are no limitations on the option to expand except as set forth in this Article.

(b) Declarant may unilaterally record plats of the Additional Property to expand the land area referred to as Additional Property whether or not such real estate is owned by Declarant.

Section 6.2 Procedure for Expansion. Declarant may record in the Register of Deeds one or more amendments to the Declaration submitting all or any portion of the Additional Property described therein to this Declaration and to the jurisdiction of the Association. Any such amendment may contain such additions to the provisions in this Declaration as may be necessary to reflect the different character of the Additional Property added thereby and as are not inconsistent with the overall scheme of this Declaration; provided, however, that such additions shall not apply to any real estate previously submitted to this Declaration. When recording an amendment adding Additional Property, appropriate plats shall be recorded showing the Additional Property being submitted to the Declaration and the jurisdiction of the Association, describing any real estate being conveyed to the Association as Common Elements, Limited Common Elements or Common Elements that may be assigned as Limited Common Elements and showing any new Lots.

Section 6.3 Withdrawal of Property. During the Development Period, Declarant, at its option and without the consent of any other Person or Owner, reserves the right unilateral to withdraw any such portion of the Property from the Property, the provisions of this Declaration and the jurisdiction of the Association. Upon the election by Declarant to withdraw any portion of the Property, Declarant shall record with the Register of Deeds one or more amendments to this Declaration withdrawing the real estate described therein, which shall include a legally sufficient description of the real estate withdrawn. When recording such an amendment withdrawing Property, appropriate plats should also be recorded by Declarant which will modify the Map so as to describe and designate the Property, or portion thereof, subject to the withdrawal.

ARTICLE 7

SPECIAL DECLARANT RIGHTS

In addition to each and every right of Declarant as set forth in this Declaration, Declarant, its successors and assigns, specifically reserves all Special Declarant Rights and Development Rights hereinafter set forth.

Section 7.1 Special Declarant Rights Reserved by Declarant.

- (1) All Special Declarant Rights, as that term is defined in the Act, and any other Special Declarant Rights as are set forth in the Act and the Association Documents.
- (2) The right to use any portion or all of the Common Elements for the purpose of aiding in the sale or rental of Lots. The foregoing right shall include the right to display and erect any signs, billboards, and placards and to store, keep and exhibit same and to distribute audio and visual promotional materials upon the Common Elements.
- (3) The right to maintain sales offices, management offices and models in any and/or all of the Lots owned or leased by Declarant, or any Lot with the consent of the Owner thereof. Any Lots leased or owned by Declarant may be used by Declarant for such purposes, and such offices and models may be relocated as Lots are sold or leases expire.
- (4) The right to use easements through the Common Elements for utility services, drainage and vehicular and pedestrian traffic, or otherwise, across, under or through the

Common Elements as may be considered by Declarant desirable for the purpose of making improvements within the Property.

(5) *The right to exercise any Development Right.*

(6) The right to perform construction work, and to store materials in secure areas, in Lots, and in Common Elements, and the further right to control all such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of the Board. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations or exercising Declarant's Development Rights and Special Declarant Rights, whether arising under the Act or reserved in this Declaration. Such easement includes the right to convey utility and drainage easements to public utilities, municipalities, and other entities to fulfill the plan of development.

(7) The right to appoint, remove and replace the officers and members of the Board.

(8) The right to disapprove actions of the Board or any committee during the Development Period.

(9) The right to disapprove any amendment or change in any Association Documents during the Development Period.

(10) The right to enforce any covenants, restrictions and other provisions of the Association Documents during the Development Period.

(11) The right to enforce any covenants, restrictions and other provisions of the Association Documents during the Development Period.

(12) *The right to amend this Declaration as set forth in Section 16.1 herein.*

Section 7.2 Development Rights Reserved by Declarant.

(1) Development Rights are the rights of the Declarant identified in this Declaration including, but not limited to the rights to: create Common Elements and Limited Common Elements within the Property; assign Limited Common Elements to Lots; convert Lots into Common Elements; and, withdraw property, Lots and Common Elements from the Property.

(2) The Development Rights reserved by Declarant may be exercised with respect to different portions of the Property at different times, and Declarant makes no assurances as to the boundaries of those portions or the order in which those portions of the Property may be subjected to the exercise of the Development Rights. If a Development Right is exercised with respect to any portion of the Property, Declarant may, but is not obligated to, exercise any Development Right with respect to any other portion of the Property.

(3) The Development Rights reserved by Declarant must be exercised within the Development Period.

Section 7.3 Limitation on Special Declarant Rights. The Special Declarant Rights reserved by Declarant shall terminate no later than the expiration of the Development Period. Any Special Declarant Rights may be terminated prior to the expiration of the Development Period by Declarant by recording an instrument evidencing said termination with the Register of Deeds.

Section 7.4 Declarant's Personal Property. Declarant reserves the right to retain all personal property and equipment used in the sales, management, construction, and maintenance of the improvements within the Property that has not been represented as property of the Association. Declarant reserves the right to remove from the Property any and all goods and improvements used in development, marketing, and construction, regardless of whether they have become fixtures.

Section 7.5 Interference with Special Declarant Rights.

(1) Neither the Association nor any Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of Declarant.

(2) In relation to Declarant's exercise of any Special Declarant Right, the provisions of the Declaration which prohibit or require approval of construction of or additions or alterations to any improvements shall not be applicable.

Section 7.6 Assignment of Declarant's Rights and Duties. Any and/or all of the rights, powers and reservations of Declarant contained in this Declaration, including but not limited to those set forth in Article 5 and this Article 7, may be assigned by Declarant to any Person which will assume any and/or all of the duties of Declarant hereunder, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment, said assignee shall, to the extent of such assignment, assume Declarant's duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Upon such assignment, and to the extent thereof, Declarant shall be relieved from all liabilities, obligations, and duties hereunder. Declarant may limit and restrict the rights and powers which are assigned to any person, corporation, or association in the instrument which assigns such rights. The term "Declarant" as used herein includes all such assignees and their successors and assigns, subject to such restrictions or limitations as may be imposed in the instrument assigning such rights. Any assignment of all or any rights reserved by Declarant shall comply with N.C. Gen. Stat. § 47F-3-104.

ARTICLE 8

COMMON EXPENSES AND ASSESSMENTS

Section 8.1 Determination of Common Expenses and Assessments - Preparation and Approval of Budget.

(1) At least sixty (60) days before the beginning of each fiscal year, the Executive Board shall adopt a budget for the Association containing an estimate of the total amount considered necessary for the ensuing fiscal year to pay Common Expenses and cost of

other expenses that may be declared to be Common Expenses by the Association Documents or by resolution of the Executive Board.

(2) Such budget shall also include such reasonable amounts as the Executive Board considers necessary to provide working capital (available cash for day-to-day expenses which is otherwise uncommitted), a general operating reserve (including an amount to cover operating losses due to insurance deductibles) and reserves for contingencies (potential costs or liabilities which have not been incurred but which should be planned for) and replacements. At least thirty (30) days before the beginning of each fiscal year, the Executive Board shall make available a copy of the budget in a reasonably itemized form which sets forth the amount of the Common Expenses and the assessment payable by each Owner and provide a copy of such budget to each member. Such budget shall constitute the basis for determining the assessment against each Lot. The annual budget adopted by the Executive Board shall be presented to the Owners for ratification at a meeting as provided in the Bylaws and the Act. The budget is ratified unless at that meeting seventy-five percent (75%) of all of the Owners in the Association reject the budget. Should the Executive Board at any time determine, in its sole discretion, that the assessments levied are, or may prove to be, insufficient to pay the Common Expenses of the Association during such fiscal year, or in the event of emergencies, the Executive Board shall have the authority to levy such additional assessments it may deem to be necessary.

Section 8.2 Assessments and Common Expenses.

(1) Rate of Assessment and Payment. Subject to the provisions of Section 8.3 hereof, the total amount of the estimated funds required for the management and Upkeep of the Property set forth in the budget as an annual assessment or levied as an additional assessment shall be assessed against each Lot annually in amounts as determined by the Executive Board, which said amounts shall be equal for all Lots. Any and all such assessments and other charges shall be a lien against each Owner's Lot as provided in Section 8.7 hereof. On or before the first day of each fiscal year, and the first day of each succeeding payment period in such fiscal year, each Owner shall pay to the Association at such place as the Executive Board may direct that installment of the annual assessment which is due during such period. The Executive Board shall establish one or more payment periods and the due dates for each such payment in each fiscal year. All sums collected by the Executive Board with respect to assessments against the Lots or from any other source may be commingled into a single fund.

(2) Lots Added During the Fiscal Year. Notwithstanding any other provision of this Article, whenever any Additional Property is added, the assessment against each Lot being added shall be prorated based upon the number of days remaining in the payment period and shall be calculated in the same manner and due in the same number of installments as the assessment for the remainder of the fiscal year against Lots already a part of the Property.

(3) Special Assessments. The Executive Board shall have the power to assess an Owner's Lot individually (i) for the amount of and costs incurred by the Association in performing Upkeep that the Owner failed to perform as required by that section, (ii) for the costs of improvements determined by the Board to be substantially for the benefit of that Owner, (iii) for the amount of any charges imposed on that Owner pursuant to Subsection 8.2(4) hereof, and (iv) for any costs incurred by the Association because of any violation or negligence for which that Owner is responsible under the Association Documents or the Act. Each such assessment shall be due ten (10) days after notice thereof is given to the Owner unless the notice specifies a later date.

(4) Optional Expenses. Upon request, the Association may provide certain services to Owners (including Declarant) on a contractual basis; provided, however, that the

charge for such services shall be assessed against such Owner's Lot in accordance with the terms of the contract.

(5) Reserves. The Executive Board shall build up and maintain reasonable reserves for working capital, contingencies and replacements. Such funds shall be a Common Expense of the Association and may be deposited with any financial institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Executive Board, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. Reserves for items serving only certain Lots shall be accounted for and funded solely by the Owners served as a Limited Common Expense. As to each separate reserve account:

(a) Extraordinary expenditures not originally included in the annual budget, which may become necessary during the year, shall be charged first against the appropriate reserves. Except for expenses for normal Upkeep shown in the annual operating budget, all expenses for repair and replacement of physical assets maintained by the Association shall be charged first against the appropriate reserves. Unless otherwise determined by the Executive Board, the amount held as reserves shall not be substantially exceed the amount reasonably required to assure the Association's ability to replace components as they reach the end of their useful lives.

(b) If regular annual maintenance extends the useful life of components so that reserves are excessive, the reserves shall be adjusted by reallocation to other budget items or by distribution to each Owner (including Declarant) in proportion to the percentage (if any) of assessments paid by such Owner.

(c) If the reserves are inadequate to meet actual expenditures for any reason (including non-payment of any Owner's assessment) then the Executive Board shall, in accordance with Subsection 8.1(1)(b) hereof, levy an additional assessment against the Lots.

(d) In order to establish an initial working capital fund, upon the first conveyance of a Lot by Declarant or any successor declarant to each Owner, each Owner shall contribute at closing an amount equal to two-twelfths (2/12) of the estimated assessment levied for the current year against each Lot, said sum to be paid to the Association. Said sum is not an

advance payment of regular assessments but shall be utilized to establish the working capital fund.

(6) Surplus and Deficit.

(a) Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Executive Board, be placed in reserve accounts, be placed in a special account to be expended solely for the general welfare of the Owners, be credited to the next periodic installments due from Owner under the current fiscal year's budget, until exhausted, or distributed to each Owner (including Declarant) in proportion to the percentage (if any) of assessments paid by such Owner.

(b) Unless the budget for the succeeding fiscal year is adjusted to amortize the deficit during such fiscal year, any net shortage in expenses (including reserves) shall be assessed promptly against the Owners as an additional assessment in accordance with Subsection 8.2(3) hereof; provided, however, that during the period Declarant owns Lots exempt from assessment Declarant may, at Declarant's sole discretion, make up the shortage in the Association's budgeted income over the Association's expenses

Section 8.3 Exemptions. During the Development Period, Lots owned by Declarant shall not be obligated for, nor subject to any annual or special assessment for any Lot owned by Declarant, provided, however, that Declarant shall be obligated for paying for each Lot owned by Declarant which contains a Dwelling Unit for which a certificate of occupancy has been issued, one-fourth (1/4) of the total amount of any assessment levied by the Executive Board against such Lot(s). The Common Elements owned by Declarant, Land Owner, or the Association shall be exempt from assessments and the lien created hereby. Notwithstanding this Section 8.3, a Lot owned by Declarant which contains a Dwelling Unit occupied as a residence (but not as a model or sales center) shall be assessed at the full rate levied against all Lots.

Section 8.4 Liability for Common Expenses.

(1) Declarant and Owner Liability. Declarant for each Lot owned by Declarant, subject to Section 8.3, hereby covenants and agrees, and each Owner of a Lot by acceptance of a deed therefor, whether or not so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association all Common Expenses and other charges assessed by the Executive Board pursuant to the provisions of this Declaration. Each Owner shall be personally liable for all assessments against such Owner's Lot. No Owner may be exempted from liability for the assessment for Common Expenses by reason of waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Lot. No Owner shall be liable for the payment of any part of the Common Expenses assessed against the Lot subsequent to the date of recordation of a conveyance by such Owner in fee of such Lot. Prior to or at the time of any such conveyance, all liens, unpaid charges and assessments shall be paid in full and discharged. The purchaser of a Lot shall be jointly and severally liable with the selling Owner for all unpaid assessments against the latter for the proportionate share of the Common Expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Owner amounts paid by the purchaser therefor, provided, however, that any such purchaser may rely on a statement of common expenses obtained pursuant to Section 8.6 herein.

(2) Mortgagee Liability. Each Mortgagee who comes into possession of a Lot by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid assessments or charges against such Lot which accrue prior to the time such Mortgagee or purchaser comes into possession thereof. The lien created by Section 7.2 hereof shall cease to exist with respect to assessments and charges levied prior to the time title is transferred by foreclosure or by deed of assignment in lieu thereof; provided, however, that if the proceeds of a foreclosure exceed the total amount due to the Mortgagee, the excess shall first be paid to the Association and applied to the satisfaction of the lien.

Section 8.5 Collection of Assessments. Any assessment, or installation thereof, not paid within thirty (30) days after the due date shall be delinquent and shall accrue a late charge in the amount not to exceed the greater of Twenty and No/100 Dollars (\$20.00) per

month or ten percent (10%) of any assessment or installment thereof unpaid. The Executive Board, or the managing agent at the request of the Board, shall take prompt action to collect any assessments for Common Expenses due from any Owner or member which remain unpaid for more than thirty (30) days after the due date for payment thereof.

Section 8.6 Statement of Common Expenses. The Executive Board or managing agent shall provide any member, Owner, contract purchaser or Mortgagee, within ten (10) days after a written request therefor, with a written statement of all unpaid assessments for Common Expenses due with respect to a specific Lot (or a statement that the amount of unpaid assessments is zero). No contract purchaser, Mortgagee or purchaser from a Mortgagee requesting such a statement shall be liable for, nor shall the Lot conveyed to such Person relying on such statement be subject to a lien for, any amount greater than unpaid assessments or charges due prior to the date of such set forth on such statement; provided, however, that this section shall not be interrupted to release any Person from personal liability for such assessments levied while such Person owned the Lot. The Executive Board may impose a reasonable charge for the preparation of such statement.

Section 8.7 Lien for Assessments.

(1) Lien. The total annual assessment of each Owner for Common Expenses, any additional assessment, any special assessment or any other sum duly levied (including without limitation fines, charges, interest, late charges, etc.), pursuant to the Association Documents, is hereby declared to be a lien levied against any Lot owned by any Owner when a claim of lien is filed in the office of the Clerk of Court of Pitt County. Until fully paid and satisfied, the lien shall apply to and encumber all of the Lots that were owned, as of the date when payment was due, by the Owner from whom payment was due, and shall also apply to and encumber any and all Lots thereafter acquired by that Owner from the time such Owner becomes the Owner thereof. With respect to annual assessment, the lien is effective on the first day of each fiscal year of the Association and, as to additional assessments, special assessments and other sums duly levied, on the first day of the next payment period which begins more than fifteen (15) days after the date of notice to the Owner of such additional assessment, special assessment or levy. The lien created by this section shall be prior to all liens and encumbrances

hereafter recorded except a first mortgage or first deed of trust held by a Mortgagee, real estate taxes and other charges levied by governmental authority and made superior by law. The personal obligation of the Owner to pay such assessment shall, in addition, remain such Owner's personal obligation and a suit to recover a money judgment for non-payment of any assessment or installation thereof, levied pursuant hereto, may be maintained without foreclosing or waiving the lien herein created to secure the same.

(2) Acceleration. In any case where an assessment against the Owner is payable in installments, upon a default by such Owner in the timely payment of any two (2) consecutive installments, the maturity of the remaining total of the unpaid installments of such assessment may be accelerated, at the option of the Executive Board, and the entire balance of the assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Owner.

(3) Enforcement. The lien for assessments may be enforced and foreclosed in any manner permitted by the Act and laws of North Carolina for foreclosure of mortgages or deeds of trust containing a power of sale or by an action in the name of the Executive Board, or the managing agent, acting on behalf of the Association. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of North Carolina. The Association shall have the power to bid on the Lot at foreclosure or other legal sales and to acquire, hold, lease, mortgage, convey or otherwise deal with such Lot.

(4) Remedies Cumulative. A suit to recover a money judgment for unpaid assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

Section 8.8 Subordination and Mortgage Protection. Notwithstanding any other provision hereof to the contrary, the lien of any assessment levied pursuant to the Association Documents upon any Lot (and any charges, interest on assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage made in good faith for value received; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Lot

pursuant to foreclosing or any proceedings in lieu of foreclosure. Such sale or transfer shall not relieve the Mortgagee or the purchaser of the Lot at such sale from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment, which lien shall have the same effect and be enforced in the same manner as provided herein.

ARTICLE 9

OPERATION OF THE PROPERTY

Section 9.1 Upkeep of Common Elements. The Association shall be responsible for the management and Upkeep of all of the Common Elements, which Upkeep shall be consistent with the community-wide standard established by the Association. If the Executive Board determines that certain Upkeep was necessitated by the negligence, misuse or neglect of any Owner, the cost of such Upkeep shall be assessed against such Owner's Lot. The Executive Board shall provide for the Upkeep of the rights-of-way along dedicated streets and roadways and dedicated public easements.

Section 9.2 Association Upkeep of Dwelling Units and Lots.

(1) Dwelling Units. The Association shall be responsible for, and shall pay as a Common Expense except as otherwise set forth in this Section, Upkeep of all exterior portions of the Dwelling Unit. For purposes of this Subsection, "exterior portions of the Dwelling Unit" shall mean the roof covering (i.e., shingles, tiles, etc.) and the siding materials on the exterior walls of the Dwelling Unit (i.e., wood siding, brick veneer, shakes, etc.), specifically excluding exterior components of all windows and exterior doors (including the glass panes and any storm window inserts or screens).

(2) Landscaping and Fences. The Association shall be responsible for, and shall pay as a Common Expense except as otherwise set forth in this Section, Upkeep of all Landscaping and all fences installed by the Declarant within each Lot.

(3) Limitation on Association's Obligation for Upkeep.

(a) Notwithstanding the provisions of Subsections 9.2(1) and (2) above, the Association shall not be responsible for, nor bear the cost of, Upkeep which is occasioned or caused by a negligent or willful act or omission of the Owner (including any family member, tenant, guest or invitee of such Owner); the Upkeep of any Landscaping