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Pender County, North Carolina
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DECLARATION

OF

COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

FOR

WATERSIDE

Prepared by and Return to:
Michael R. Ganley, Attorney
Bagwell Holt Smith P.A.
111 Cloister Court, Ste. 200
Chapel Hill, NC 27514

Submitted electronically by "Bagwell Holt Smith P.A."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Pender County Register of Deeds.

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DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
WATERSIDE

This Declaration is made **February 25, 2020**, by **SFTEN, LLC**, a Delaware limited liability company, hereinafter referred to as the "Declarant." The Declarant states and declares as follows:

A. The Declarant is the owner of that tract of land located in Pender County, North Carolina, and described in **Exhibit A** attached hereto and incorporated herein (the "Property");

B. The Declarant intends to subdivide the Property into residential lots, common areas and public rights-of-way, and to create from the Property and such additional land as may be subjected to this Declaration pursuant to Article X below a planned community to be known as Waterside (the "Community"); and

C. The Declarant desires to impose certain restrictive and protective covenants upon the Property to provide voting rights for Members in the Association and assessment allocations for Common Expenses to protect and to promote the beneficial ownership, use and enjoyment of all residential lots located within the Community.

THEREFORE, pursuant to Chapter 47F of the North Carolina General Statutes (the "Planned Community Act"), the Declarant hereby executes this Declaration to create Waterside, a North Carolina planned community, and declares that henceforth all portions of the Property shall be held and owned subject to the following terms, provisions, covenants, conditions and restrictions, which shall run with the Property and which shall be binding upon all owners of any portion of the Property and their lessees, guests, mortgagees, heirs, executors, administrators, successors and assigns.

Article I
Application of the North Carolina Planned Community Act

The terms and provisions of Chapter 47F of the North Carolina General Statutes, as the same shall be amended from time to time, shall apply to the Community.

Article II
Definitions

The definitions set forth in N.C.G.S. § 47F-1-103 shall apply to this Declaration and are incorporated herein, except that the terms listed below shall have the specific meanings stated:

2.1. "Annexation Declaration" shall mean an instrument recorded at the Pender County Registry that subjects additional land to this Declaration.

2.2. "Architectural Guidelines" shall mean the architectural, design and construction guidelines and review procedures adopted pursuant to Article V below, as they may be amended.

2.3. "Articles of Incorporation" shall mean the Articles of Incorporations for Waterside Community Association, Inc., a North Carolina nonprofit corporation.

2.4. "Association" shall mean Waterside Community Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

2.5 "Base Assessment" shall mean the assessment levied on all Lots subject to assessment under Article IX below to fund Common Expenses, as determined in accordance with Article IX below.

2.6. "Board of Directors" or "Board" shall mean the executive board of the Association, as defined by the Planned Community Act and as created by the Bylaws.

2.7. "Bylaws" shall mean the bylaws of the Association as they now or hereafter exist and as they may be amended from time to time.

2.8 "Common Areas" shall mean all property, and any improvements thereon, wherever located, owned or leased by or dedicated to the Association or subjected to an easement or license in favor of the Association for the common use and enjoyment of Members. Common Areas shall include all water and sewer lines serving more than one Lot and located outside any public rights-of-way or utility easements. Common Areas shall include any Stormwater Control Facilities serving more than one Lot and not accepted by any governmental authority for maintenance. Common Areas shall include any streets or road rights-of-way serving more than one Lot and not accepted by any governmental authority for maintenance.

2.9. "Common Expenses" shall mean all costs of the Association in maintaining Common Areas, and meeting its responsibilities pursuant to Articles VI, VII and IX of this Declaration.

2.10. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in Pender County, North Carolina, or the minimum standards established pursuant to the Architectural Guidelines, Rule and Regulations, and Board resolutions, whichever is the higher standard. Declarant shall initially establish such standard, which may involve both objective and subjective elements. The Community-Wide Standard shall evolve as the Community evolves.

2.11. "Declarant" shall mean SFTEN, LLC, a Delaware limited liability company, or any successor or assign designated as Declarant in a Recorded Document executed by the immediately preceding Declarant.

2.12. "Declarant Control Period" shall mean the period of time during which Declarant holds a fee interest or contractual right in any portion, however small, of the land described in **Exhibit A** and/or **Exhibit B** attached hereto and incorporated herein.

2.13. "Declaration" shall mean this Declaration of Covenants, Conditions, Easements and Restrictions for Waterside, and any amendments hereto or restatements hereof.

2.14. "Governing Documents" shall mean, collectively, this Declaration, any applicable Supplemental Declaration, the Articles of Incorporation, the Bylaws, the Architectural Guidelines and the Rules and Regulations, as the same may be amended from time to time.

2.15. "Lot" shall mean any separate parcel of land within the Community designated for separate ownership or occupancy and residential use.

2.16. "Limited Common Areas" shall mean a portion of the Common Areas reserved for the exclusive use of one or more, but less than all, of the Lots.

2.17. "Master Plan" shall mean the master land-use plan for the development of the Community approved by Pender County, North Carolina.

2.18. "Member" shall mean and refer to every person or entity entitled to membership in the Association as provided in Article III below.

2.19. "Mortgage" shall mean a deed of trust recorded at the Pender County Registry that is a lien against any Lot. "Mortgagee" shall refer to a beneficiary or holder of a Mortgage. A "First Mortgage" shall be a Mortgage having priority over all other Mortgages encumbering a Lot. "First Mortgagee" shall refer to a beneficiary or holder of a First Mortgage.

2.20. "Neighborhood" shall mean any area or areas within the Community designated by a Supplemental Declaration to be a distinct or separate residential area within the Community, the residents of which will share or have in common expenses, interests, concerns, responsibilities, needs or uses not shared by or common to all residents within the Community.

2.21. "Neighborhood Assessments" shall mean assessments levied in accordance with Section 9.7 below.

2.22. "Neighborhood Expenses" shall mean the actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighborhood or Neighborhoods, which may include reasonable reserves for capital repairs and replacements and reasonable administrative charges, as may be authorized pursuant to this Declaration or in the Supplementary Declaration(s) applicable to such Neighborhood(s).

2.23. "Occupant" means any person occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such person is a tenant of the Owner of such property. "Occupants" shall refer to more than one Occupant.

2.24. "Owner" shall mean and refer to an owner of record of a fee simple interest in any Lot, including contract sellers, but excluding those having an interest only as security for the performance of an obligation. There may be more than one Owner of any single Lot.

2.25. "Recorded Document" shall mean any document, including any map or plat of survey, recorded at the Office of the Register of Deeds of Pender County, North Carolina.

2.26. "Rules & Regulations" shall mean the initial rules and regulations for use and occupancy of the Lots and the Common Areas set forth in **Exhibit C**, as they may be supplemented, modified, restated or superseded pursuant to Article IV below.

2.27. "Special Assessments" shall mean assessments levied in accordance with Article 9 below.

2.28. "Specific Assessments" shall mean assessments levied in accordance with Article 9 below.

2.29. "Stormwater Control Facilities" shall mean one or more of the following devices and measures, together with associated private drainage easements utilized for conveying stormwater (however identified on a plat, map or in a recorded document) that serve(s) the Property and which are located outside of public street rights-of-way and drainage easements accepted into public use by Pender County, including, but not limited to, bio-cells, conduits, inlets, channels, pipes, level spreaders, ditches, grassed swales, sand filters, wet ponds, dry detention basins, wetlands, permanently protected undisturbed open space areas (and similarly designated areas shown on any recorded plat of any portion of the Property), bio-retention areas, retention or detention ponds, runoff and pollutants for more than one (1) Lot in the Property. Private drainage easements, however identified on a recorded plat or recorded map or in a recorded document, that serve more than one (1) Lot are deemed to be dedicated to the Association for the benefit of the Property or applicable portions thereof.

2.30. "Supplemental Declaration" shall mean any declaration of covenants, conditions, easements and/or restrictions that Declarant may file at the Pender County Registry subsequently to filing this Declaration, which shall apply only to a particular area or areas within the Community. Such Supplemental Declaration may supplement, change, amend or supersede the terms and provisions of this Declaration as necessary to accommodate differences between the plan of the development for the subject property and the plan of the development for the rest of the Community.

Article III
Waterside Community Association, Inc.

Every person or entity who is an owner of a fee or undivided fee simple interest in any of the Lots shall be a Member of the Association. Ownership of such interest shall be the sole qualification for membership, and membership shall be appurtenant to and shall not be separated from such ownership.

The Association shall be organized and governed as follows:

3.1. Purposes. The purposes of the Association shall be:

a. To maintain and preserve all Common Areas, and all roads, streets, decorative and protective structures (including but not limited to entry monuments and buffer walls), ponds, lakes, utilities, landscaped areas and other improvements located thereon, if any;

b. To enforce the provisions of the Governing Documents;

c. To perform all duties and functions allotted to owner's associations pursuant to the Planned Community Act;

d. To promote and to protect the enjoyment and beneficial use and ownership of the Lots; and

e. To promulgate and enforce the Rules and Regulations and administrative rules and regulations for use of the Common Areas.

3.2. Powers and Responsibilities. The Association shall have all powers and responsibilities and shall perform all duties and functions allotted to owner's associations by Article 3 of the Planned Community Act, the terms and provisions of which are incorporated herein. The Association shall also have all rights and powers and shall perform all duties and functions that may be assigned to it by Declarant pursuant to this Declaration.

3.3 Voting Rights and Meetings. On matters of Association business submitted to vote of the membership, there shall be two classes of membership:

Class A. Every person who is an Owner, with the exception of the Declarant, shall be a Class A Member. Class A Members shall be entitled to one (1) vote per Lot. No more than one vote per Lot may be cast by Class A Members, regardless of the number of Owners of a given Lot.

Class B. The Declarant shall be the sole Class B Member. Class B membership shall be a full voting membership and, during its existence, the Class B Member shall be entitled to vote on all matters or issues before or considered by the Association. The Class B Member shall be entitled to three (3) votes for each Lot it owns, plus one (1) vote for each Lot owned by a person other than the Declarant. The Class B membership shall cease and shall be converted to Class A membership at such time as the first of the following events occur: (i) the date that all the Lots in the Community have been conveyed by the Declarant to other Owners; (ii) the surrender by the Declarant of the right to appoint or remove any officer of the Association or member of the Board by a Recorded Document executed by the Declarant; or (iii) the expiration of Declarant's rights to appoint or remove any officer of the Association or member of the Board pursuant to Article XI below.

Unless otherwise provided herein or in the Planned Community Act, all voting matters shall be decided by a simple majority vote. Requirements for a quorum shall be as provided by the Bylaws. The Members shall meet as provided by the Bylaws.

3.4 Bylaws. The initial Board shall enact and adopt all and any Bylaws that they deem necessary for the operation of the Association, which Bylaws shall be binding upon all Members, their Mortgagees, lessees, agents and invitees.

Article IV
Use and Occupancy of Lots and Common Areas

4.1. Fundamental Restriction on Use.

The Lots and Common Areas shall be used for residential and related purposes only, subject to and consistent with the Governing Documents, including the Rules and Regulations; provided that Declarant, the Association and/or builders approved by Declarant may maintain a business or management office within the Community, and provided that Declarant and/or any brokers or builders approved by Declarant may maintain information centers, model homes and sales offices within the Community. Notwithstanding the above, home business use ancillary to the primary residential use of a Lot is permitted, subject to the Rules and Regulations and all applicable laws and ordinances of governmental authorities.

4.2. Fundamental Restriction on Occupancy.

All Occupants of a single Lot shall be members of a single family. For purposes of this Declaration, a single family unit is defined as a group of individuals related by blood, marriage, adoption, or guardianship, or not more than three (3) persons not so related, living together as a single housekeeping unit. The number of Occupants on each Lot shall also be reasonably limited by the Lot's size and facilities and by a policy against disproportionate use of the Common Areas.

4.3. Additional Restrictions on Use and Occupancy of Lots.

Use and occupancy of all Lots shall be restricted as follows:

4.3.1 Completion of Construction. Once construction of any structure located within the Community is begun, it must be prosecuted diligently and must be completed within twelve (12) months of its commencement, unless otherwise approved in writing by Declarant.

4.3.2 Subdivision of Lots. No dwelling shall be erected on less than one Lot and no Lot shall be subdivided; however, owners of adjoining Lots may adjust a common boundary line, provided that the adjustment conforms in all respects with all applicable governmental regulations and ordinances, and with this Declaration.

4.3.3 Subdivision of Common Area. No Common Area shall be subdivided unless a revised Preliminary Plat and a revised Final Plat showing such subdivision have been submitted and approved by the governing municipality.

4.3.4 Signs. No signs, billboard or other advertising of any kind shall be displayed to public view on any Lot, right of way or Common Areas. This provision shall not apply to marketing, construction, advertising or informational signs placed on any Lot, right of way or Common Areas by Declarant. This provision shall not apply to professionally prepared signs placed on any Lot which are used to advertise a Lot for sale or rent, provided that no such sign shall be larger than 18" x 24". Although approval of the Association or the ARC is not required prior to the display of such signs, the Association may itself remove, have removed, or require the removal of any such sign which in its opinion would not otherwise be allowed under Article

5 of this Declaration or as amended or supplemented. A valid easement shall exist on any Lot for such removal by the Association or its agents.

4.3.5 Refuse Storage. No Lot shall be used or maintained as a dumping ground for rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing or material be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that might disturb the peace, quiet, comfort or serenity of the occupants of surrounding Lots. Trash, garbage or other waste shall not be burned or disposed of on any Lot and shall be kept in sanitary containers approved by the ARC. All equipment for the storage prior to disposal of such material shall be kept in a clean and sanitary condition. The placement of containers shall be approved by the ARC and, in any event, shall be kept in an enclosed area not subject to view from any person, from any direction.

4.3.6 Storage of Building Materials. No lumber, brick, stone, cinder block, concrete block, cement or other materials used for building purposes shall be stored upon any Lot longer than a reasonable time for the completion of the construction in which they are to be used.

4.3.7 Temporary Structures. No temporary structures such as sheds shall be erected or placed on a Lot without the written approval of the Declarant or the Association. Such structures, if permitted, may be used only during periods of construction, and never as a residence.

4.3.8 Parking and Vehicle Storage. Only licensed and operative vehicles, classified as passenger cars, station wagons, passenger pick-up trucks or passenger vans may be regularly parked in driveways. No vehicle will be permitted to park regularly on any roadway within the Community. Recreational vehicles must be screened from view. No vehicle located on a Lot may be used as a dwelling, even temporarily.

4.3.9 Offensive Activities Prohibited. No noxious or offensive activity shall be conducted upon any Lot or Common Areas, nor shall anything be conducted thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood or to the Occupants of any Lot.

4.3.10 Underground Utilities. All utility lines serving structures located on Lots shall be placed underground.

4.3.11 Mobile Homes and Manufactured Housing. No mobile home, trailer or manufactured housing shall be located on any Lot.

4.3.12 Screening. Boats, boat trailers, golf carts, campers, antennae, clotheslines, pet enclosures and the like shall not be located on a Lot so as to be visible from any roadway or any other Lot. Boats and golf carts must be either parked in the garage or screened behind a fence at least six (6) feet in height.

4.4 Rules and Regulations.

In addition to the restrictions stated above, which may be modified or rescinded only by an amendment to this Declaration, use and occupancy of the Lots and Common Areas shall be subject to the Rules and Regulations, which are intended to govern day-to-day use and occupancy of the Lots and Common Areas. The initial Rules and Regulations are set forth in **Exhibit C** attached hereto and incorporated herein. In order to adapt and respond to changing or unforeseen circumstances affecting the Community, the Declarant, the Association and the Owners must have the ability to change the Rules and Regulations in an expedited and inexpensive manner. Accordingly, the Rules and Regulations may be amended, supplemented and/or rescinded and restated as set forth in this Section 4.4.

4.4.1. Declarant's Authority. During the Declarant Control Period, the Declarant shall have the unilateral right to amend, supplement and/or rescind and restate the Rules and Regulations, without prior notice to the Association or to other Owners; provided that no such action by Declarant may have a materially adverse effect on title to or marketability of any Lot.

4.4.2. Board Authority**.** The Board may amend, supplement and/or rescind and restate the Rules and Regulations. The Board shall send notice by mail or electronic notification to all Members concerning any such proposed action at least five (5) business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken. The Board's decision on such action shall be final, subject only to subsection 4.4.1 above.

4.4.3. Members' Authority. Members representing more than Fifty percent (50%) of the total votes in the Association, at an Association meeting duly called for such purpose, may amend, supplement and/or rescind and restate the Rules and Regulations.

4.4.4. Conflicts. Nothing in this Article shall authorize the Board to modify, repeal or expand the Architectural Guidelines or any provision of this Declaration. In the event of a conflict between the Architectural Guidelines and the Rules and Regulations, the Architectural Guidelines shall control. In the event of a conflict between this Declaration and the Rules and Regulations, this Declaration shall control.

4.5. Limitations**.** The right and ability of the Declarant and the Board to amend, supplement or restate the Rules and Regulations shall be limited as follows:

4.5.1. Displays. The rights of Owners to display religious and holiday signs, symbols and decorations inside structures on their Lots of the kinds normally displayed in single-family residential neighborhoods shall not be abridged, but no such display may violate the Community-Wide Standard or violate any other provision of this Declaration.

4.5.2. Activities Within Dwellings. No rule established pursuant to this Article shall interfere with the activities carried on within the confines of dwellings, except that the Association may restrict or prohibit any activities that create costs for the Association or other Owners, that create a danger to the health or safety of others, that generate excessive noise, traffic or use of parking facilities, that create unsightly conditions visible outside the dwelling or

that otherwise violate the provisions of this Declaration or any applicable governmental law, ordinance or regulation.

4.5.3. Alienation. No rule promulgated pursuant to this Section shall prohibit leasing or transfer of any Lot or require consent of the Association or Board for leasing or transfer of any Lot; however, the Association may require a minimum lease term of six (6) months and otherwise regulate the leasing of Lots, excepting any Lots subject to a mortgage which is insured or guaranteed by the Federal Housing Administration or the Veterans Administration, or where the provisions of this Section 4.5.3 are otherwise prohibited by law.

4.5.3 Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Lot prior to the adoption of such rule and which was in compliance with all rules previously in force. This limitation shall apply only for the duration of such Owner's ownership of the Lot personally, and this right shall not run with title to any Lot.

The limitations stated in this subsection shall not apply to amendments to this Declaration.

4.6 Common Areas Administrative Rules.

The Board may promulgate and enforce administrative rules and regulations governing use of the Common Areas without notice to the Members or any hearing. Examples of such administrative rules and regulations shall include, but not be limited to, setting hours of operation of a recreational facility or allocating or reserving use of a facility by particular individuals at particular times.

4.7 Notice to Purchasers and Mortgagees.

All prospective purchasers and mortgagees are given notice that use of the Lots and the Common Areas is restricted and governed by the Rules and Regulations, as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed, acknowledges and agrees that the use, enjoyment and marketability of his or her Lot shall be affected by the Rules and Regulations which may change from time to time, and that the current Rules and Regulations may not be set forth in a Recorded Document. **Take notice that the Declarant or the Association may have changed the initial Rules and Regulations since the recording of this Declaration.** The Association shall provide a copy of the current Rules and Regulations to any prospective purchaser Member or Mortgagee upon written request and payment of the reasonable cost of such copy.

Article V
Architecture and Landscaping

5.1. General.

No structure or thing, including but not limited to fences, shall be placed, erected, or installed upon any Lot and no improvements or other work (including staking, clearing, excavation, grading, and other site work, exterior alterations of existing improvements, or

planting or removal of landscaping) shall take place on any Lot except pursuant to approval and in compliance with this Article and the Architectural Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of a dwelling located on his or her Lot without approval; provided that modifications to the interior of a dwelling visible from outside the structure shall be subject to approval.

Any improvements constructed on a Lot shall be designed by and built in accordance with the plans and specifications of a licensed architect unless otherwise approved by Declarant or its designee in its sole discretion.

This Article shall not apply to Declarant's activities or to the Association's activities during the Declarant Control Period.

5.2 Architectural Review.

5.2.1. By Declarant. Each Owner, by accepting a deed or other instrument conveying any legal or equitable interest in a Lot, acknowledges that, as the developer and owner of real estate in the vicinity of and within the Community, Declarant has a substantial interest in the quality and appearance of improvements within the Community, and in determining that they enhance Declarant's reputation as a developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, no Owner shall commence any activity within the scope of this Article on his or her Lot unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall act solely in Declarant's interest and shall owe no duty to any other person. Declarant's rights reserved under this Article shall continue or as long as Declarant owns any portion of the real property described in **Exhibit A** or **B** or has the right to expand the Community pursuant to Section 10.1, unless earlier terminated by Declarant by a Recorded Document.

Declarant may, in its sole discretion, designate one or more persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to any other person or committee. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to (a) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated, and (b) Declarant's right to veto any decision which Declarant determines, in its sole and exclusive discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of any other person or committee shall be limited to such matters as are specifically delegated to it by Declarant.

5.2.2. Architectural Review Committee**.** Upon delegation by Declarant or upon expiration of the Declarant Control Period, the Association, acting through an architectural review committee ("ARC") appointed by the Board, shall assume jurisdiction over architectural matters. The ARC shall consist of at least three (3), but not more than seven (7), persons who shall serve and may be removed and replaced at the Board's discretion. The members of the ARC need not be Members, and may, but need not, include architects, engineers, or similar professionals, whose compensation, if any, the Board shall establish from time to time.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Association or expiration of the Declarant Control Period, the Association shall have no jurisdiction over architectural matters.

5.3 Reviewer**.** For purposes of this Article, the committee or entity having jurisdiction over architectural matters in a particular case shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals.

5.4 Guidelines and Procedures**.**

5.4.1 Architectural Guidelines**.** Declarant may prepare Architectural Guidelines applicable to Lots which may contain general provisions applicable to all Lots as well as specific provisions which vary among the Lots according to location, Neighborhood, use, or other factors. The Architectural Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the Reviewer in considering applications hereunder. The Architectural Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Architectural Guidelines does not guarantee approval of any application. Further, the Architectural Guidelines may be more restrictive than guidelines followed by Pender County or as set forth in the International Builder's Code.

Declarant shall have sole and full authority to amend the Architectural Guidelines as long as it owns any portion of the real property described in **Exhibit A** or **B** or has a right to expand the Community pursuant to Section 10.1, notwithstanding a delegation of reviewing authority, unless Declarant also delegates the power to amend the Architectural Guidelines. Upon termination or delegation of Declarant's right to amend, the ARC shall have the authority to amend the Architectural Guidelines with the Board's consent. Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

The Association shall maintain a copy of the Architectural Guidelines, as they may exist from time to time, and shall make them available to Members or Owners for inspection and copying upon reasonable notice during the Association's business hours. In Declarant's

discretion, such Architectural Guidelines may be recorded at the Pender County Registry, in which event the recorded version, as it may be amended, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

5.4.2 Procedures. Except as the Architectural Guidelines otherwise specifically provide, no activity described in Section 5.1 shall commence on any Lot until an application for approval has been submitted to and approved by the Reviewer. Such application shall include plans and specifications showing site layout, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction, as applicable. The Architectural Guidelines and the Reviewer may require the submission of such additional information as deemed necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based solely on aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability or attractiveness of particular improvements. Subject to Declarant's veto power described below, the Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment. Such determinations shall not be subject to review so long as they are made in good faith and in accordance with the procedures described in this Article.

The Reviewer shall make a determination on each application within thirty (30) days after receipt of a completed application and all required information. The Reviewer may (a) approve the application, with or without conditions; (b) approve a portion of the application and disapprove other portions; (c) disapprove the application; or (d) request further or additional information. The Reviewer may, but shall not be obligated to, specify the reasons for any objections or offer suggestions for curing any objections.

Until expiration of Declarant's rights under this Article, the ARC shall notify Declarant in writing within three (3) business days after the ARC has approved an application. The notice shall be accompanied by a copy of the application and any additional information which Declarant may require. Declarant shall have ten (10) days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARC and the applicant.

In any event, the Reviewer shall notify the applicant in writing of a final determination within forty-five (45) days after its receipt of a completed application and all required information. In the event that the Reviewer fails to respond in a timely manner, approval shall be deemed to have been given, subject to Declarant's veto right. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Architectural Guidelines unless the Reviewer has granted a variance pursuant to Section 5.6.

Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U.S. Postal Service or sent via electronic notification. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which plans have been approved within one (1) year after the date of approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to reapply for approval before commencing construction of any proposed improvements. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant, or any aggrieved Member.

The Reviewer may by resolution exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

5.5 No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not constitute a binding precedent in any other matter or waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

5.6 Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

5.7 Limitation of Liability.

The standards and procedures this Article establishes are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Community; they do not create any duty to any person. Review and approval of any application pursuant to this Article may be based on aesthetic considerations only. The Reviewer shall not bear any responsibility for ensuring (a)

the structural integrity or soundness of approved construction or modifications, (b) compliance with building codes and other governmental requirements, (c) that Lots are of comparable quality, value, size, or of similar design, aesthetically pleasing, or otherwise acceptable to neighboring property owners, (d) that views from any other Lots or the Common Areas are protected, or (e) that no defects exist in approved construction.

Declarant, the Association, the Board, any committee, or any member of any of the foregoing shall not be held liable for soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the actions, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents; or any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Lot. In all matters, the Association shall defend and indemnify the Board, the ARC, and any members thereof as provided in the Bylaws.

5.8 Certificate of Compliance.

Any Owner may request that the Reviewer issue a certificate of architectural compliance certifying that such Owner's Lot has no known violations of this Article or the Architectural Guidelines. The Association shall either grant or deny such request within thirty (30) days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall stop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

5.9 View Impairment.

Neither Declarant nor the Association guarantee or represent that any view over and across any portion of the Community or any adjacent property will be preserved without impairment. Any additions or changes, whether occurring in the course of developing or maintaining the Community, may diminish or obstruct any view from Lots and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

Article VI
Maintenance and Repair

6.1 General All areas within the Property and all areas covered by easements or licenses owned or held by the Association shall be maintained to the Community-Wide Standard, and to all other standards stated in this Declaration, any Supplemental Declaration and the Bylaws, Rules and Regulations of the Association. The Association and the individual Owners shall be responsible for such maintenance, as provided in this Article VI.

6.2 Association Responsibility. Prior to their acceptance for public or private maintenance, any roads, streets, walks, entranceways, cul-de-sacs, and utilities in the Community shall be maintained by the Association. Such maintenance shall include repair and

reconstruction, when necessary. Maintenance of the roads, streets, entranceways and cul-de-sacs in the Community shall conform to the standard of maintenance (if one is ascertainable) which would be required by the North Carolina Department of Transportation or other governmental entity before it would accept such roads, streets, entranceways and cul-de-sacs for maintenance.

The Association shall also maintain the following:

a. All landscaped rights-of-way and all entry features;

b. All Common Areas, and all landscaping, paving, streets, structures and improvements of any nature located thereon; and

c. All ponds, streams and culverts located on the Property which serve as part of any Stormwater Control Facilities.

6.3 Owner's Responsibility. Each Owner shall maintain his or her Lot and all unimproved Common Areas along the boundaries of his or her Lot (e.g., area between lot line and curb). Each owner shall maintain all landscaping, paving, structures and improvements of any nature whatsoever located on his or her Lot. Each Owner's maintenance of his or her Lot and adjoining, unimproved Common Areas shall include but not be limited to:

a. Keeping the area free and clear of all litter, trash, refuse and wastes;

b. Mowing lawns on a regular basis;

c. Pruning trees and shrubs;

d. Watering lawns;

e. Keeping exterior lighting and mechanical facilities in working order;

f. Keeping lawn and garden areas alive;

g. Removing and replacing any dead plant material;

h. Keeping vacant land well maintained and free of trash and weeds;

i. Keeping parking areas and driveways in good repair;

j. Complying with all governmental health and police requirements;

k. Repainting of all structures; and

l. Repair of exterior damage to all structures.

6.4 Association's Right to Perform Owner's Responsibility. If any Owner or Occupant of a Lot fails to perform any of the duties or responsibilities set forth in this subsection, then the

Association or Declarant may give such person written notice of such failure and such person must within ten (10) days after receiving such notice (which notice shall be deemed to have been received upon deposit in any official depository of the United States mail, addresses to the party to whom it is intended to be delivered at that party's current address as shown by the records of the Association, and sent by certified mail, return receipt requested), perform the care and maintenance required or otherwise perform the duties and responsibilities of such Owner. Should any such person fail to fulfill this duty and responsibility within such period, then the Declarant or the Association, acting through its authorized agent or agents, shall have the right and power to enter onto the Lot in question and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise at any person. All Owner(s) of a Lot on which such work is performed shall be liable for the cost of such work together with interest on the amounts expended by the Association or the Declarant in performing such work computed at the rate of twelve percent (12.00%) per annum from the date(s) such amounts are expended until repaid to the Association or the Declarant, as the case may be, and for all costs and expenses incurred in seeking the compliance of such Owner with his duties and responsibilities hereunder, and shall reimburse the Association or the Declarant, as the case may be, on demand for such costs and expense (including interest as above provided). If such Owner shall fail to reimburse the Association or the Declarant, as the case may be, within thirty (30) days after mailing to such Owner of a statement for such costs and expense by the Association or Declarant, the Association has performed the work on the Lot of the delinquent Owner(s), the Association may charge a Specific Assessment for such amounts against the Lot of such Owner(s), and proceed to collect such Specific Assessment as provided in Article IX below.

6.5 Cost of Maintenance. All costs of the Association in meeting its responsibilities pursuant to this Section shall be Common Expenses.

6.6 Conveyance of Common Areas to Association; No Implied Rights. Declarant, or the owner of the property with the consent of the Declarant, may transfer or convey to the Association at any time and from time to time any personal property and any interest in improved or unimproved real property. Such conveyance shall be deemed to be accepted by the Association upon delivery of any personal property or upon recordation with the Pender County Registry of a non-warranty deed conveying any interest in real property, and the property shall thereafter be Common Areas to be used and, if and as provided in this Article VI, maintained by the Association for the benefit of its Members. The Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section and shall have no duty or obligation to convey any property or property rights to the Association regardless of whether or not any such property has been made available for the use of Owners. Declarant, or the owner of the property with consent of Declarant, may reserve, by lease, license, easement or otherwise such rights of use and enjoyment in and to all or any portion of the property so conveyed as Declarant may reasonably require so long as such reservation is not materially inconsistent with the overall scheme of development for the Community. Neither the recordation of any subdivision plat nor the use by the Owners or maintenance by the Association of any property shall create any rights, easements or licenses, in the Association or the Owners, express or implied, unless and until any such property rights, easements or licenses are conveyed by the Declarant or the owner of such property to the Association or the Owners, as the case may be, by an instrument recorded in the Office of the Register of Deeds of Pender County, North Carolina.

6.7 Liability. Owners, Occupants and their guests shall use the Common Areas and all portions of the Community not contained within a Lot at their own risk and shall assume sole responsibility for their personal belongings used or stored thereon. All Owners and Occupants shall have an affirmative duty and responsibility to inspect the Common Areas and all portions of the Community not contained within a Lot for any defects, perils or other unsafe conditions relating to the use and enjoyment thereof. The Association, the Declarant and their respective officers, directors, employees, representatives and agents shall not be held liable for personal injury to any person, nor for loss or damage to personal belongings used or stored on any of the foregoing property. The Association shall not be liable for injury or damage to any person or property: (a) caused by the elements or by an Owner or any other person, (b) resulting from any rain or other surface water which may leak or flow from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association or from any portion of the Common Property, or (c) caused by any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner or Occupant for loss or damage, by theft or otherwise, of any property of such Owner or Occupant.

Article VII
Insurance

7.1 Association's Responsibility.

7.1.1 The Association shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available.

a. Blanket property insurance for all insurable improvements on the Common Areas insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils. All property insurance policies the Association obtains shall have policy limits sufficient to cover the full replacement cost of the insured improvements at the time of the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies. This coverage shall not, however, include any improvements or betterments installed by an Owner or any of the personal property belonging to an Owner. The Association shall be deemed trustee of all Members' interests in all insurance proceeds paid to the Association under any such policies and shall have full power to receive and to deal with such proceeds. The insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried, except as otherwise provided in this Section.

b. Commercial general liability insurance covering without limitation, liability for personal injuries and activities in connection with the ownership, operation, maintenance, and other use of the Common Areas. The Board shall use its business judgment in deciding upon per occurrence limits for such coverage and shall consider any applicable secondary mortgage guidelines relating to such coverage. The liability insurance shall name, as separately protected insureds, Declarant, any property manager, the Association, the Board, the officers of the

Association, the ARC, and their respective representatives, members, agents, and employees with respect to any liability arising out of the maintenance or use of the Common Areas.

c. Workers' compensation insurance and employers' liability insurance, if and to the extent required by law.

d. Directors' and officers' liability coverage.

e. Commercial crime insurance, including fidelity insurance covering all persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation.

f. Such additional insurance as the Board, in its business judgment determines advisable.

7.1.2 Premiums for all insurance shall be Common Expenses unless the Board reasonably determines that other treatment of the premiums is more appropriate. The Association shall include such premiums in the assessments it levies. The Board shall review the limits of all Association insurance policies at least once a year and shall adjust the policy limits as the Board deems necessary or appropriate.

7.1.3 The Association shall arrange for a periodic review of the sufficiency of its insurance coverage by one or more qualified persons, at least one of whom must be familiar with replacement costs in the Pender County area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

7.1.4 The policies may provide for a reasonable deductible. In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Specific Assessment pursuant to Section IX below.

7.1.5 All insurance coverage obtained by the Board shall:

a. be written with a company authorized to do business in North Carolina which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate and carries a Best rating of AA or better;

b. be written in the name of the Association as trustee for the benefited parties. (policies on the Common Areas shall be for the benefit of the Association and its Members);

c. not be brought into contribution with insurance purchased by Owners, Occupants, or their Mortgagees individually;

d. contain an inflation guard endorsement;

e. include an agreed amount endorsement, if the policy contains a coinsurance clause;

f. provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's membership in the Association or interest in the Common Areas as a Member in the Association (provided, this provision shall not be construed as giving any Owner any interest in the Common Areas other than that of a Member);

g. include an endorsement precluding cancellation, invalidation, suspension or non-renewal by the insurer conditioning recovery on account of an act or omission of any one or more Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

h. include an endorsement precluding the insurer from denying a claim by an Owner or conditioning recovery under the policy based upon or due to the negligent acts or omissions of the Association or any other Owner.

7.1.6 In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners (as a class) as additional insureds for claims arising in connection with the ownership, existence, use or management of the Common Areas and provide:

a. a waiver of subrogation as to any claims against the Association's board of directors, officers, employees and its manager, or the Owners and their tenants, servants, agents and guests;

b. a waiver of the insurer's rights to repair and reconstruct instead of paying cash; and

c. an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification or non-renewal

7.2 Owner's Responsibility.

7.2.1 Each Owner of a Lot shall be responsible for obtaining and maintaining at all times hazard insurance at their own expense covering all portions of the Owner's Lot, including structures and improvements on the Lot and Owner's personal property. In addition, to the extent not insured by policies of the Association or the extent insurable losses result in the payment of deductibles under the Association's policies, every Owner shall obtain and maintain at all times insurance covering consequential damages to any other Lot or the Common Areas due to occurrences originating with the Owner's Lot and caused by the Owner's negligence, the Owner's failure to maintain the Owner's Lot or any other casualty within the Lot, which caused damage to any other Lot or Common Areas. Additionally, each Owner of a Lot may, at their

option, obtain insurance at their own expense to cover their personal liability, and to provide such other coverage as they may desire

7.2.2 Owner's policies shall: (i) name the Association as an additional insured; (ii) contain waivers of subrogation and of any reduction of pro rata liability of the insurer as a result of any insurance carried by the Association or of any invalidity arising from any acts of the Association or any other Owners; and (iii) shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days prior written notice to the Association. At the Association's request, Owners shall file a copy of each individual policy or policies covering their Lot and personal property with the Board within ten (10) days after receiving such request. Such Owner shall promptly notify the Association in writing in the event such policy is canceled.

7.2.3 No Owner shall do or keep anything on his/her Lot or on the Common Areas which shall cause an increase in the premiums for or the cancellation of any insurance maintained by the Association.

7.2.4 In the event that the Association is terminated pursuant to Section 17.2 herein, or in the event that the Association otherwise defaults under its maintenance responsibilities for the Stormwater Control Facilities, each Owner shall be jointly and severally responsible for maintenance of the Stormwater Control Facilities, including payment of any unpaid ad valorem taxes, public assessments for improvements, and unsafe building and public abatement liens charged against the Stormwater Control Facilities and Lots benefitted by those Stormwater Control Facilities, and including all interest charges thereon, together with the costs and expenses of collection incurred by themselves (or other collecting agent), including court costs and reasonable attorney's fees actually incurred. Each Owner has a right of contribution against all other Owners whose portions of the Property are served by the same Stormwater Control Facilities for payment of such costs and expenses to the extent that the Owner having such right of contribution pays more than such Owner's pro rata share thereof, such pro rata share being determined either dividing the acreage of such Owner's portion of the Property served by the Stormwater Control Facilities by the total acreage of the portion of the Property served by the same Stormwater Control Facilities when no maintenance assessments apply to the Property.

Article VIII
Repair and Reconstruction

The Association shall have the authority and the duty to repair or reconstruct Common Areas or other property which the Association is obligated to insure ("Insured Property") that is damaged or destroyed unless such repair or reconstruction would be illegal under any state or local ordinance governing health or safety, or Members representing at least eighty percent (80%) percent of the total vote of the Association vote not to repair or reconstruct.

Except as otherwise provided in this Section, the Board shall diligently pursue to completion the repair or reconstruction of that part of the Insured Property damaged or destroyed. The Association may take all necessary or appropriate action to affect such repair or reconstruction. Such repair or reconstruction shall be in accordance with the original plans and specifications unless other plans are approved by the Board.

The proceeds of any insurance collected shall be available to the Association for the purpose of repair or reconstruction of Insured Property. If the proceeds of insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, then the Board, pursuant to Section IX may levy in advance a Special Assessment sufficient to provide funds to pay such estimated or actual costs of repair or reconstruction. Such assessment shall be allocated and collected as provided in Article IX. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction. The insurance proceeds held by the Association and the amounts of any such Special Assessments shall constitute a fund for the payment for costs of repair or reconstruction after casualty. If a balance exists after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners of the Lots in proportion to the contributions made by each Owner to the Association.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the Association shall clear the affected property of all debris and ruins and thereafter shall maintain such improvements in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The cost of removal and landscaping shall be paid for with insurance proceeds. The Association shall retain the remaining proceeds in its general or other funds or shall allocate or distribute such funds as the Board determines appropriate, provided any such distribution of insurance proceeds shall be proportionate to the Members' interests.

Article IX
Assessments and Association Finances

9.1 Purpose of Assessments. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners of Lots, including, without limitation, the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors. Furthermore, the Association shall be required to maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of the Stormwater Control Facilities out of the assessment levied. The maintenance of the Stormwater Control Facilities shall be a Common Expense of the Association.

9.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association any and all assessments levied by the Association hereunder (including, without limitation, Base Assessments, Special Assessments, Specific Assessments, and Neighborhood Assessments) and any other charges established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration and the Bylaws. In addition to the foregoing, the Board may charge each Owner a service, collection, consulting or administration fee (an "Administrative Fee") in an amount to be determined by the Board from time to time in connection with the assessment and collection of the assessments provided for in this

Declaration. The Administrative Fee shall include shall include charges for services of the management company and any charges for credit reporting.

Each such assessment, together with late charges (in an amount determined by the Board from time to time, but not to exceed the greater of Twenty and No/100 Dollars ($20.00) per month or ten percent (10%) of any assessment installment unpaid or such higher amount as may be permitted by the Act), interest (at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum or such other amount as may be permitted by the Planned Community Act), costs of collection, reasonable attorney's fees actually incurred and any Administrative Fee, shall be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due. Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Lot and his or her successor-in-title shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, further, however, the liability of a grantee for the unpaid assessments of the grantor shall not apply to any First Mortgagee or other purchaser taking title through foreclosure proceedings or deed in lieu of foreclosure.

No Owner may waive or otherwise be exempt from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot or non-use of the Common Property. No diminution or abatement of any assessment shall be claimed or allowed by reason of any failure of the Association to take some action or perform some function required to be taken or performed by the Association, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or directive of any governmental or municipal authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

Assessments shall be paid at a uniform rate per Lot in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of assessments for delinquents; provided however, (a) notwithstanding any provision in this Declaration to the contrary, assessments to pay a judgment against the Association may be made only against the Lots in the Community at the time the judgment was entered; and (b) if any common expense is caused by the negligence or misconduct of any Owner or Occupant, the Association may assess the expenses exclusively against that Owner's Lot, as more particularly set forth in Section 9.3 hereof.

All sums assessed against any Lot pursuant to this Declaration, together with late charges (in an amount determined by the Board from time to time, but not to exceed the greater of Twenty and No/100 Dollars ($20.00) per month or ten percent (10%) of any installment unpaid or such higher amount as may be permitted by the Planned Community Act), interest on the principal amount due (at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum or such higher amount as provided in the Planned Community Act), costs of collection, reasonable attorney's fees actually incurred and any Administrative Fee when remaining unpaid for thirty (30) days or longer, shall be secured by a lien on such Lot in favor of the Association when the Association files a claim of lien in the Pender County, North Carolina clerk of court in the manner provided by law, if filing of such lien is required by law,

otherwise such lien shall automatically attach. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (i) liens and encumbrances recorded before the docketing of the claim of lien, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot. This Section does not affect the priority of mechanics' or materialmens' liens.

All persons acquiring a lien or encumbrance on any Lot after this Declaration has been recorded in the Pender County, North Carolina land records shall be deemed to consent that such lien or encumbrance shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such lien or encumbrance.

9.3 Budgeting and Allocating Common Expenses.

Until the Association first levies assessments, Declarant shall be responsible for all Common Expenses. Thereafter, assessments for Common Expenses shall be levied at least annually in accordance with this Article.

At least Sixty (60) days before the beginning of each fiscal year, the Board shall prepare and approve a budget of the estimated Common Expenses for the coming year. The budget shall include any contributions to be made to a reserve fund for repair and replacement of capital assets, based on a separate reserve budget which takes into account the number and nature of replaceable assets, the expected life of each asset and each asset's expected repair or replacement cost. The budget shall reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots and the amount to be generated through the levy of Base Assessments and Special Assessments against the Lots, as authorized in Article IX. After the Declarant Control Period terminates, the annual Base Assessments shall not be increased by an amount greater than twenty (20%) percent of the annual Base Assessment of the immediately preceding calendar year.

The Association is hereby authorized to levy Base Assessments equally against all Lots subject to assessment to fund the Common Expenses. In determining the Base Assessment rate per Lot, the Board may consider any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year. Base Assessments include any sums the Board determines necessary for the continued ownership, operation and maintenance of the Common Property, operating expenses of the Association, payment for any items of betterment and the establishment of reserve funds as the Board shall deem proper. Base Assessments may include, without limitation, sums for property taxes, insurance premiums, legal and accounting fees, management fees, charges for utilities and other services provided by the Association, if any, cleaning and janitor services, landscape maintenance, costs and expenses associated with the operation and maintenance of the storm water drainage facilities and storm water detention/retention pond(s) in the Community, and expenses and liabilities incurred as provided herein and in the Articles of Incorporation and Bylaws for indemnification of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others.

Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by paying any deficit between the Common Expenses and Association funds collected pursuant to the current year's budget, or any portion of any such deficit (in addition to any amounts paid by Declarant under Section 9.7), which may be a contribution, an advance against future assessments due from Declarant or a loan, in Declarant's discretion. Any such deficit payment shall be disclosed as a line item in the income portion of the budget. Payment of such deficit, or portion thereof, in any year shall not obligate Declarant to continue payment of such deficit in future years, unless otherwise provided in a written agreement between the Association and Declarant.

9.4 Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of a majority of the Board and the consent of Declarant during the Declarant Control Period. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

9.5 Specific Assessments.

The Board shall have the power to levy specific assessments as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to this Declaration, the capital contribution described below, and the costs of maintenance performed by the Association for which the Owner is responsible shall be specific assessments. The Board of Directors may also specifically assess Owners for Association expenses as follows: (a) expenses of the Association which are incurred to cover the costs, including overhead and administrative costs, of providing services to Lots upon request of an Owner pursuant to any menu of special services which the Association may offer; (b) expenses of the Association which are incurred to cover costs incurred in bringing the Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or Occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; and (c) expenses of the Association which are incurred as a result of the conduct of a particular Owner or Occupant or the guests, tenants, invitees or licensees of such Owner or Occupant may be assessed against the Lot of such Owner or Occupant.

9.6 Authority to Assess Owners; Time of Payment. Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Lot on the date that the Lot is first occupied for residential purposes. A Lot shall be deemed to be occupied for residential purposes when it has been improved with a dwelling for

which a certificate of occupancy has been issued and has been conveyed to an Owner who intends to occupy the dwelling, or, if the dwelling is occupied as a residence before such conveyance, the date of such occupancy. Any Lot which has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Declaration whether owned by Declarant or any other person, so long as such Lot is approved for use as a model home and is not occupied for residential purposes. The first annual Base Assessment levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board provides otherwise, the Base Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require the outstanding balance on all assessments to be paid in full immediately.

9.7 Neighborhood Assessments. The Board may levy assessments against the property in a particular Neighborhood to fund actual and estimated expenses incurred by the Association for the primary benefit of property within such Neighborhood. Neighborhood assessments shall be levied as specifically budgeted from time to time by the Board of Directors for expense items such as maintenance, insurance or special services. In addition, the Board shall levy a Neighborhood Assessment upon the request of the Owners holding two-thirds (2/3) of the total association vote applicable to Lots within a Neighborhood.

9.8 Subordination of Liens to Mortgages. The lien of all assessments authorized herein is hereby made subordinate to the lien of any first Mortgage if, but only if, all assessments and charges with respect to such Lot authorized herein having a due date on or prior to the date of the Mortgage as filed of record have been paid. The lien hereby subordinated is only such lien as relates to assessments and charges authorized hereunder having a due date subsequent to the date such Mortgage is filed of record and prior to the satisfaction, cancellation or foreclosure of such Mortgage or the sale or transfer of the Lot pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the Lot pursuant to a sale under power contained in such Mortgage. Such subordination is merely a subordination and shall not relieve the Owner of the Lot of the personal obligation to pay all assessments coming due during such period of ownership; shall not relieve such Lot from the lien provided for herein (except to the extent a subordinated lien is extinguished as a result of such subordination as against a Mortgagee or such Mortgagee's assignee or transferee by foreclosure or by sale under power); and no sale or transfer of such Lot to the Mortgagee or to any other person pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure or pursuant to a sale under power, shall relieve any existing or previous Owner of such Lot of any personal obligation or relieve such Lot or the then Owner of such Lot from liability for any assessment authorized hereunder that becomes due after such sale and transfer.

9.9 Remedies of the Association. Any sums or charges (including assessments or installments thereof) assessed against any Lot pursuant to this Declaration which are not paid when due shall be delinquent. Any such sums delinquent for a period of more than ten (10) days shall incur a late charge (in an amount determined by the Board from time to time, but not to exceed the greater of Twenty and No/100 Dollars ($20.00) per month or ten percent (10%) of any installment unpaid or such higher amount as may be permitted by the Planned Community Act) and interest (at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum or such higher amount as may be permitted by the Planned Community Act). The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date (the "Delinquency Notice"). The Delinquency Notice shall state: (i) the outstanding balance due as of the date of the Delinquency Notice; (ii) that the member has fifteen (15) days from the mailing of the Delinquency Notice (the "Grace Period") to pay the outstanding balance without being required to pay attorneys fees and court costs; (iii) the name of and contact information for a representative of the Association whom the member can contact to discuss a payment schedule for the outstanding balance; provided however, the Association shall not be required to permit payment of the outstanding balance in installments; and (iv) that if the outstanding balance is not paid within the Grace Period, the Association intends to seek payment of attorneys' fees and court costs. The Delinquency Notice must be sent by first class mail to the Lot of such member and, if different, to the mailing address of the member in the Association's records. If any such sums are not paid within thirty (30) days after the due date, the Board may accelerate and declare immediately due all such sums (including annual assessments or installments thereof) without any further notice being given to the delinquent Owner, and (i) to the extent permitted by applicable law, a lien, as herein provided, shall attach; and (ii) a claim of lien, as herein provided, may be filed in the Pender County, North Carolina clerk of court in the manner provided by law. Such lien shall include, interest, all late charges from the date first due and payable, any Administrative Fee, all costs of collection, and, if the Owner has been provided with a Delinquency Notice and failed to pay the outstanding balance set forth therein within fifteen (15) days from the mailing of the Delinquency Notice, court costs and reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law.

Notwithstanding anything to the contrary in this Declaration, if a member does not contest the collection of the unpaid assessments and enforcement of a lien after the expiration of the Grace Period, then reasonable attorneys fees collected by the Association in connection with such debt shall not exceed One Thousand Two Hundred and No/100 dollars ($1,200.00), or such higher amount as may be permitted by the Planned Community Act, not including costs or expenses incurred; provided however, such limitation shall not apply to judicial foreclosures or to proceedings authorized under Section 116 (d) or Section 120 of Article 3 of the Planned Community Act. The collection of the unpaid assessments and enforcement of the lien shall be deemed uncontested as long as the member does not dispute, contest or raise any objection, defense, offset or counterclaim as to the amount or validity of the unpaid assessments and lien asserted or the Association's right to collect the debt and enforce the lien.

If any sum assessed against any Lot pursuant to this Declaration remains unpaid after ninety (90) days from the due date, the Association may, as the Board shall determine, institute suit to collect such amounts and/or vote to foreclose its lien. The Association may vote to

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 North Carolina General Statutes or in any other manner permitted by applicable law; provided however, (i) the Association may not foreclose the lien under Article 2A of Chapter 45 of the North Carolina General Statutes if the debt securing the lien consists solely of fines imposed by the Association, interest on unpaid fines, or attorneys fees incurred by the Association solely associated with fines imposed by the Association (such lien may be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the North Carolina General Statutes); and (ii) any lien securing a debt consisting solely of Administrative Fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the North Carolina General Statutes. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents, to the extent permitted by this Declaration and applicable law, the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes; or in any other manner permitted by applicable law. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same.

In addition to the foregoing, in the event that an Owner is at least thirty (30) days delinquent in the payment of any assessment or charge owed to the Association, the Association may suspend the right of such Owner to vote, suspend the right of such Owner to use and enjoy the Common Property and the suspend any services or utilities which may be provided to Lots in the Community, subject to any notice requirements imposed by the institutional providers providing such services or utilities in the Community and in accordance with the notice and hearing procedure in the Bylaws.

9.10 Budget Deficits During Declarant Control.

During the Declarant Control Period, Declarant may (but shall not be required to):

a. Declarant may advance funds to the Association sufficient to satisfy the deficit, if any, between the Association's actual operating expenses and the sum of the Base, Special, Neighborhood, and Specific Assessments collected by the Association in any fiscal year. Such advances shall, upon request of Declarant, be evidenced by promissory notes from the Association in favor of Declarant. Declarant's failure to obtain a promissory note shall not invalidate the debt.

b. Declarant may cause the Association to borrow any amount from a third party at the then prevailing rates for such a loan in the local area of the Community. Declarant, in its sole discretion, may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Areas or any of the improvements maintained by the Association shall be given in connection with such loan.

Declarant may acquire property for, or provide services to, the Association or the Common Areas. Declarant shall designate the value of the property or the services provided,

and such amounts, at Declarant's request, shall be evidenced by a promissory note. Failure to obtain a promissory note shall not invalidate the obligation referred to in this Section.

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

9.12 Statement of Account.

Upon written request of any Member, Mortgagee, prospective Mortgagee or prospective purchaser of a Lot, the Association shall issue a written statement setting forth the amount of the unpaid assessments, if any, with respect to such Lot, the amount of the current periodic assessment and the date on which such assessment becomes or became due, and any credit for advanced payments or prepaid items. Such statement shall be delivered to the requesting person personally or by certified mail, first-class postage prepaid, return receipt requested. The Association may require the payment of a reasonable processing fee for issuance of such statement.

Such statement shall bind the Association in favor of persons who rely upon it in good faith. Provided such request is made in writing, if the request for a statement of account is not processed within fourteen (14) days of receipt of the request, all unpaid assessments that became due before the date of making such request shall be subordinate to the lien of a Mortgagee that acquires its interest after requesting such statement.

9.13 Exempt Property.

The following property shall be exempt from payment of Base Assessments, Specific Assessments, Neighborhood Assessments, and Special Assessments:

a. all Common Areas;

b. any property dedicated to and accepted by any governmental authority or public utility; and

c. any and all property owned by the Declarant.

9.14 Capitalization of Association.

Upon the sale of each Lot in the Community after it has been improved with a residence for which a certificate of occupancy has been issued, a capital contribution in an amount as determined by the Board from time to time shall be collected from the purchaser at the closing of such sale for the benefit of the Association (or if not collected at the closing, shall be paid immediately on demand by the Association). This capital contribution shall be a Specific Assessments against the Lot and shall be in addition to, not in lieu of, the annual Base

Assessment. The capital contribution shall not be considered an advance payment of the annual Base Assessment. The capital contribution may be established, increased or decreased in the sole and exclusive discretion of the Board.

Article X
Expansion of the Community

10.1. Expansion by Declarant.

Until all property described in **Exhibit B** has been subjected to this Declaration or twenty (20) years after the recording of this Declaration, whichever is earlier, Declarant reserves the right, but not the obligation, to subject unilaterally to the provisions of this Declaration all or any portion of the real property described in **Exhibit B** which Declarant currently owns or to which Declarant may obtain title in the future. Declarant may transfer or assign this right to subject property to this Declaration, provided that the transferee or assignee is the developer of or owns at least a portion of the real property described in **Exhibit B,** and provided that the transfer or assignment is evidenced by a Recorded Document.

Declarant shall subject additional property to this Declaration by recording an Annexation Declaration describing the property being subjected. Such Annexation Declaration shall not require the Members' consent but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the recording of such Annexation Declaration unless otherwise provided therein.

10.2. Expansion by the Association.

Upon termination of the Declarant Control Period, the Association may subject any real property to the provisions of this Declaration with the consent of the owner of such property, if authorized by the affirmative vote of Members representing sixty-seven percent (67%) of the total existing votes in the Association.

The Association shall subject such property by recording an Annexation Declaration describing the property being subjected. Any such Annexation Declaration shall be executed by the Association and the owner of the subject property, and shall be certified by the Secretary of the Association to have been authorized by the requisite vote of the Members of the Association.

10.3. Withdrawal of Property.

Declarant reserves the right to amend this Declaration so long as it has a right to annex additional real property to the Community pursuant to this Article for the purpose of removing any portion of the Community then owned by Declarant or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community. Any such withdrawal shall be accomplished by filing an amendment to the Declaration executed by Declarant describing the property to be removed. Such amendment shall be executed by the Declarant and the owner(s) of the property being removed if said property is not owned by the

Declarant and shall not require the vote or consent of members of the Association and shall be effective upon the filing of record in the Office of the Register of Deeds of Pender County unless a later effective date is provided therein.

Article XI
Declarant Rights

11.1. Reasonable Rights To Develop.

Declarant, builders approved by Declarant and/or their contractors or subcontrators may construct improvements to or within the Community including to the Lots. The completion of such construction and the sale or other disposal of the Lots is essential to the establishment and welfare of the Community. Therefore, during the Declarant Control Period, nothing in this Declaration or the other Governing Documents shall be construed to:

a. prevent Declarant, approved builders, or their contractors or subcontractors from doing whatever is reasonably necessary or advisable in connection with the commencement or completion of the above-described work throughout the Community;

b. prevent Declarant or its representatives from erecting, constructing, and maintaining anywhere in the Community such structures as reasonably may be necessary for the conduct of its business of completing the work, establishing Waterside as a residential Community and disposing of the Lots by sale, lease, or otherwise;

c. prevent Declarant and/or builders approved by Declarant from maintaining such signs and conducting such activities in any part of the Community owned by Declarant and/or builders approved by Declarant as Declarant and/or builders may deem to be reasonably necessary for the sale, lease, or disposition of Lots; or

d. prevent Declarant and/or builders approved by Declarant from placing and utilizing on Lots or other property which it owns one or more mobile trailers or temporary structures as sales offices or for construction activities.

Nothing in this Section shall give Declarant and/or builders approved by Declarant the right to damage any Lot or other property not owned by Declarant and/or builders approved by Declarant.

11.2. Marketing and Sales Activities.

During the Declarant Control Period, Declarant and builders approved by Declarant may construct, relocate, maintain and carry on upon any Lot Declarant owns, the builder owns or upon portions of the Common Areas, such facilities and activities as may be reasonably required, convenient or incidental to the construction, marketing or sale of Lots, as determined in Declarant's sole opinion. Such facilities and activities may include, without limitation, business offices, signs, model homes, and sales offices. There shall be no limit on the number or

size of such facilities. Declarant and builders approved by Declarant shall have easements for access to and use of such facilities. Declarant reserves the right to remove any personal property used in connection with its activities on the Common Areas upon termination of its rights under this Section.

11.3. Construction of Improvements.

During the Declarant Control Period, Declarant and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Areas for the purpose of making, constructing and installing such improvements to the Common Areas as it deems appropriate in its sole discretion.

11.4. Right to Approve Additional Covenants.

During the Declarant Control Period, no person or entity shall record any declaration of covenants, conditions, easements and restrictions, or similar instrument affecting any portion of the Community without Declarant's prior written approval. Any instrument recorded without such consent shall be void and of no force and effect unless Declarant subsequently consents in a Recorded Document.

11.5. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's rights or obligations set forth in this Declaration or the Bylaws may be transferred in whole or in part to other persons; however, the transfer shall not reduce an obligation or enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless evidenced by a Recorded Document. The foregoing sentence shall not preclude Declarant from permitting other persons to exercise, on a one-time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety. In such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

11.6. Exclusive Rights to Use Name of Development.

During the Declarant Control Period, no person or entity shall use the name "Waterside" or any derivative of such name in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Waterside" in printed or promotional matter where such term is used solely to specify that particular property is located within the community and the Association shall be entitled to use the word "Waterside" in its name.

11.7. Right to Approve Changes in Community Standards.

During the Declarant Control Period, no amendment to or modification of any Rules and Regulations or Architectural Guidelines shall be effective without Declarant's prior written approval.

11.8. Easement to Inspect and Right to Correct.

11.8.1. Easement. Declarant reserves for itself, the Association, and such other persons as it may designate perpetual non-exclusive easements throughout the Community to the extent reasonably necessary for the purposes of accessing, inspecting, testing, redesigning or correcting any portion of the Community including Lots and Common Areas. Declarant shall have the right to redesign or correct any part of the Community, including Lots owned by Declarant and Common Areas.

11.8.2. Right of Entry. Entry onto a Lot shall be after reasonable notice, except in an emergency. Entry into a structure on a Lot shall be only after Declarant notifies the Lot's Owner and agrees with the Owner regarding a reasonable time to enter the structures on such Lot to perform such activities.

11.8.3. Damage. Declarant shall promptly repair any damage to a Lot or the Common Areas resulting from the exercise of the easement or right of entry described in subsections 11.8.1 and 11.8.2 of this Section at its own expense. The exercise of these easements shall not unreasonably interfere with the use of any Lot, and entry onto any Lot shall be made only after reasonable notice to the Owner or Occupant.

11.9 Neighborhoods.

During the Declarant Control Period, Declarant, acting in its sole and absolute discretion, shall have the right, but not the obligation to establish separately developed residential Neighborhoods, recreational areas and amenity areas, or some, all or none of these, within the Community, and to designate Limited Common Area for the exclusive use of one or more, but less than all of Neighborhoods. Every Lot situated within a designated Neighborhood may be subjected to additional covenants, conditions, restrictions and additional assessments for services provided to Lots within such designated Neighborhood. Such additional covenants may be set forth in this Declaration or a Supplemental Declaration.

Any Neighborhood may request that the Association provide a higher level of service than that which the Association generally provides to all Neighborhoods, or may request that the Association provide special services for the benefit of Lots in such Neighborhood. Upon the affirmative vote, of the Owners of a majority of the Lots within the Neighborhood, the Association shall provide the requested services. The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Lot to all Neighborhoods receiving the same service), shall be a Neighborhood Assessment.

11.10 Appointment or Removal of Members of the Board and officers. During the Declarant Control Period, Declarant shall have the right to appoint or remove any member of the Board or officer of the Association.

11.11 Amendment to Declaration. During the Declarant Control Period, Declarant shall have the right to amend or rescind and restate this Declaration by a Recorded Document, without approval or joinder of the Association or any other Party.

11.12 Review of Design and Construction. During the Declarant Control Period, Declarant shall have the right to control the design, quality, installation and construction of improvements within the Community as provided in Article V above.

Article XII
Easements

12.1 Owners' Easements of Enjoyment. Except as limited by this Declaration and the Planned Community Act, every Owner shall have a right of use and enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot. Except as limited by this Declaration and the Planned Community Act, any Owner may delegate his rights of use and enjoyment of the Common Areas to the members of his family, his tenants, contract purchasers who reside on the Property, or his guests.

12.2 Walks, Drives, Parking Areas, and Utilities. All areas of the Community shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities and for the maintenance of and general access to all stormwater control structures, gas lines, telephone and electric power lines, television antenna lines, other utilities, ingress, egress and regress and otherwise as shall be established by the Declarant or by its predecessor in title, prior to the conveyance of the Property designated to be the Common Areas to the Association; and the Association shall have the power and authority to grant and establish further easements upon, over, under, and across the Common Areas.

12.3 Encroachments and Declarant's Easement to Correct Drainage. All Lots and the Common Areas shall be subject to easements for the encroachment of initial improvements constructed on any Lots or Common Areas to the extent that such initial improvements actually encroach, including, without limitation, such items as overhanging eaves, gutters, downspouts, exterior storage rooms, bay windows, steps and walls. For a period of twenty-five (25) years from the date of conveyance of the first Lot in a parcel or section, the Declarant reserves a blanket easement and right-of-way on, over, and under the ground within that parcel, phase or section to maintain and to correct drainage or surface water in order to maintain reasonable standards of health, safety and appearance. Such rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil or take any other similar action reasonably necessary. After such action has been completed, the Declarant shall restore the affected Property to its original condition to the extent practicable. Declarant shall give reasonable notice of intent to take such action to all affected owners. These rights and reservations are assignable by the Declarant.

12.4 Easement for Entry Features. There is hereby reserved to the Declarant and the Association an easement for ingress, egress, installation, construction landscaping and maintenance of entry features and similar streetscapes for the Community, over and upon each Lot and all Common Areas. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such entry features and the right to grade the land under and around such entry features.

12.5 Construction and Sale Period Easement. Notwithstanding any provisions contained in the Declaration, the Bylaws, the Articles of Incorporation, use restrictions, rules and regulations, design guidelines, and any amendments thereto, until Declarant's right unilaterally to subject property to this Declaration terminates and thereafter so long as Declarant owns any property in the Community for development or sale, Declarant reserves an easement across the Community for Declarant and any builder or developer approved by Declarant to maintain and carry on development, construction, and sales activities related to property within or near the Community, upon such portion of the Community as Declarant may reasonably deem necessary. This reserved easement shall include an easement for such facilities and activities which, in the sole opinion of Declarant, may be required, convenient or incidental to the development, construction and sales activities related to property within or near the Community. This easement shall include, without limitation: (i) the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in any portion of the Community as well as any Lot in the Community; (ii) the right to tie into any portion of the Community with driveways, parking areas and walkways; (iii) the right to tie into or otherwise connect and use (without a tap-on or any other fee for doing so), replace, relocate, maintain and repair any device which provides utility or similar services; (iv) the right (but not the obligation) to construct recreational facilities on the Common Areas; (v) the right to carry on sales and promotional activities in the Community; (vi) the right to place direction and marketing signs on any portion of the Community, including any Lot or Common Areas; and (vii) the right to construct and operate business offices, signs, construction trailers, model residences, and sales offices incidental to the construction, development and sales activities. Further, the Declarant and any builder or developer authorized by Declarant, may use residences, offices or other buildings owned or leased by Declarant or such builder or developer as model residences and sales offices, and may also use recreational facilities available for use by the Community as a sales office or for marketing purposes without charge. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, and reasonable steps shall be taken to protect such property from damage. Any damage shall be repaired by the person causing the damage at its sole expense. This section shall not be amended without the Declarant's express written consent until the Declarant's rights hereunder have terminated as provided in this Declaration.

12.6 Irrigation. There is hereby reserved to the Declarant and the Association a blanket easement to pump water from ponds, lakes and other bodies of water located within the Community for irrigation purposes.

12.7 Fence Easement. Declarant hereby reserves an easement across any Lot which borders upon or contains a portion of any water facility, detention pond, or retention pond for the purpose of access to such facility or pond, and for the purpose of erecting any fence which is

either required by the subdivision development and construction plans or governmental regulation, rule, ordinance, or plan approval requirement.

12.8 Easement to Government Entities. An easement is hereby established for municipal, State or public utilities serving the area, their agents and employees, over all Common Areas hereby or hereafter established for setting, removing and reading utility meters, maintaining and replacing utility connections, and acting with other purposes consistent with the public safety and welfare, including, without limitation, garbage collection, mail delivery, police and fire protection.

12.9 Easement and Right of Entry for Repair, Maintenance and Reconstruction. If any dwelling is located closer than four (4) feet from its lot line, the Owner thereof shall have a perpetual access easement over the adjoining lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of his home. Such repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Lot to as near the same condition as that which existed prior to the commencement of the work as is reasonably practicable.

12.10 Pedestrian Easements. To the extent that they are not maintained by the Owners of those portions of the Properties on which they are located, the Association shall maintain all Pedestrian Access Easements required to be located on any portion of the Properties pursuant to approved subdivision plan approvals and/or pursuant to plats of the Properties recorded in the register of deeds of the county in which the Property is located, and/or pursuant to written maintenance agreements with the municipal or county authorities.

12.11 Right of the Association and Declarant to Enter Upon the Common Areas. Declarant hereby reserves for the benefit of itself, its successors in interest and assigns, and grants to the Association and all agents, employees or other designees of Declarant or the Association an easement for ingress, egress and access to enter upon or over the Common Areas for the purposes of inspecting any construction, proposed construction, or improvements or fulfilling the rights, duties and responsibilities of ownership, administration, maintenance and repair of Declarant or the Association, as appropriate. Such easement includes an easement in favor of the Association and Declarant to enter upon the Common Areas now or hereafter created to use, repair, maintain and replace the same for the purposes for which they are initially designated or for such purposes as they are hereafter redesignated or as Declarant otherwise determines them to be reasonably suited. Notwithstanding the foregoing, nothing contained herein shall be interpreted as imposing any obligation upon the Association or Declarant to maintain, repair, or construct improvements which an Owner is required to maintain, construct or repair.

12.12 Right-of-Way Over Roadways. Declarant hereby reserves, for the benefit of itself, its agents, employees, lessees, invitees, designees, successors and assigns, and grants to the Association, its agents, employees, tenants, invitees, designees, successors and assigns, and to each Owner of a Lot, their family members, tenants, guests, invitees, successors and assigns, and to each Occupant of a Lot and to all governmental and quasi-governmental agencies and service entities having jurisdiction over the Property while engaged in their respective functions, a perpetual, non-exclusive easement, license, right and privilege of passage and use, both

pedestrian and vehicular, over and across any roads, streets, entranceways and cul-de-sacs in the Community for the purpose of providing access, ingress and egress to and from, through and between the Property.

12.13 Utility and Drainage Easements. The Property shall be subject to all easements and rights-of-way for utilities and drainage shown on any Recorded Document. Such easements are hereby reserved for the use of Declarant, its successors and assigns, and are hereby established for the use of the Association, its successors and assigns. Additionally, Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Association, its successors and assigns, a non-exclusive easement and right-of-way over, under and along all Lots within the Property for the installation and maintenance of lines, conduits, pipes and other equipment necessary for furnishing electric power, gas, telephone service, cable service, water, irrigation, sanitary sewer and drainage facilities, storm drainage and/or other utilities. Within the above-described easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation of utilities or which may change the direction or flow of drainage channels in the easements. This reservation of easement shall not prohibit the construction of driveways, at locations approved by the ARC, over such easements.

12.14 Declarant's Right to Assign Easements; Maintenance of Easement Areas. Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder. The areas burdened by the easements and rights-of-way reserved by Declarant on each Lot or other portion of the Property pursuant hereto, including any improvements in such areas, which are not to be maintained by the Association or a public authority or utility, shall be maintained continuously by each Owner of such Lot or other portion of the Property, but no structures, plantings or other material shall be placed or permitted to remain upon such area 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 problems.

12.15 Easement Reserved for the Association and Declarant. Full rights of access, ingress and egress are hereby reserved by Declarant for itself and the Association at all times over and upon any Lot or other portion of the Property for the exercise of the easement rights described in this Article XII and for the carrying out by Declarant or the Association of the rights, functions, duties and obligations of each hereunder; provided, that any such entry by Declarant or the Association upon any Lot or portion of the Property shall be made with the minimum inconvenience to the Owner of such property as is reasonably practical, and any damage caused as a result of the gross negligence of Declarant, the Association or their employees or agents shall be repaired by Declarant or the Association, as the case may be, at the expense of Declarant or the Association, as the case may be.

12.16 Additional Easements. Declarant shall have the right to grant over, under, across and upon any portion of the Property owned by Declarant, and the Board shall have the authority, in its sole discretion, to grant over, under, across and upon the Common Areas, such easements, rights-of-way, licenses and other rights in accordance with or to supplement the provisions of this Declaration or as may otherwise be desirable for the development of the Community, by the execution, without further authorization, of such grants of easement or other instruments as may

from time to time be necessary or desirable. Such easements may be for the use and benefit of persons who are not Members or Owners. After such time as the members of the Board are no longer appointed by Declarant, the Board shall cooperate with Declarant and execute such grants of easements over the Common Areas as may be desirable to Declarant for the development of the Community and the preservation and enhancement of Declarant's interest therein.

12.17 Stormwater Restrictions. The following covenants are intended to ensure ongoing compliance with State Stormwater Permit Number SW8 170114, as issued by the Division of Energy, Mineral and Land Resources under NCAC 2H.1000:

12.17.1. The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit.

12.17.2. These covenants are to run with the land and be binding on all persons and parties claiming under them.

12.17.3. The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the Division.

12.17.4. Alteration of the drainage as shown on the approved plans may not take place without the concurrence of the Division.

12.17.5. The maximum allowable built-upon area is:

a. 4,200 square feet per Lot for Lots in Phase 1.

b. 3,800 square feet per Lot for Lots 91 through 97, inclusive, 101 through 118, inclusive, 145, 148, and 158 through 170, inclusive.

c. 3,200 square feet per Lot for Lots 98, 99, 100, 119 through 144, inclusive, 146, 147 and 149 through 157, inclusive.

This allotted amount includes any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

12.17.6. All runoff from the built-upon areas on the lot must drain into the permitted system. This may be accomplished through providing roof drain gutters, which drain to the pond or street, grading the lot to drain toward the street or directly into the pond, or grading perimeter swales and directing them into the pond or street.

12.17.7. Built-upon area in excess of the permitted amount will require a permit modification to ensure compliance with the permit and stormwater rules.

12.17.8. A 50-foot wide vegetative setback must be provided and maintained adjacent to all surface waters, measured horizontally from the normal pool elevation of impounded structures, from the top of bank of each side of streams or rivers, and from the mean high waterline of tidal waters, perpendicular to the shoreline.

12.17.9. Any individual or entity found to be in noncompliance with the provisions of a stormwater management permit or the requirements of the Stormwater Rules is subject to enforcement procedures as set forth in NCGS 143, Article 21.

Article XIII
Dispute Resolution and Limitation on Litigation

13.1. Consensus for Association Litigation.

Except as provided in this Section, the Association shall not commence a judicial or administrative proceeding without the approval of Members representing at least sixty-seven percent (67%) of the total votes of the Association. This Section shall not apply, however, to (a) actions by the Association to enforce the Governing Documents (including, without limitation, the imposition of fines, the suspension of privileges or services or the foreclosure of liens); (b) the collection of assessments; (c) proceedings involving challenges to *ad valorem* taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Prior to the Association or any Member commencing any judicial or administrative proceeding to which Declarant is a party and which arises out of an alleged defect in the Community or any improvement constructed thereon, Declarant shall have the right to meet in good faith and discuss the subject of the proceeding with the Members or the particular Member, and to access, inspect, correct the condition of or redesign any portion of the Community, including any improvement as to which a defect is alleged. In addition, the Association or the Member shall notify the builder who constructed such improvements prior to retaining any other expert witness or for other litigation purposes.

13.2 Alternative Method for Resolving Disputes.

Declarant, the Association, its officers, directors and committee members, all persons subject to this Declaration, any builder within the Community, and any person not otherwise subject to the Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to use good faith efforts to resolve those claims, grievances, or disputes described in Section 13.3 ("Claims") using the procedures set forth in Section 13.4 hereof.

13.3. Claims.

Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application, or enforcement of the Governing Documents, or the rights, obligations, and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements in the Community (other than matters of aesthetic judgment under Article V, which shall not be subject to review) shall be subject to the provisions of Section 13.4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 13.4:

a. any suit by the Declarant and/or Association against any Bound Party to enforce the provisions of this Declaration;

b. any suit by the Declarant, Association or any Owner to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the party's ability to enforce the provisions of this Declaration;

c. any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

d. any suit in which any indispensable party is not a Bound Party; and

e. any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 13.4.1 unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 13.4.

13.4. Mandatory Procedures.

13.4.1. Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

a. the nature of the Claim, including the persons involved and Respondent's role in the Claim;

b. the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

c. Claimant's proposed remedy; and

d. that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

13.4.2 Negotiation and Mediation.

a. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

b. If the Parties do not resolve the Claim within Thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have Thirty (30) additional days to submit the Claim to mediation under an independent agency providing dispute resolution services in Pender County or surrounding areas.

c. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; however, nothing herein shall release or discharge Respondent from any liability to any person other than the Claimant.

d. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within Thirty (30) days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

e. Within five (5) days of the Termination of Mediation, the Claimant shall make a final written demand ("Settlement Demand") to the Respondent, and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimants' original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

13.4.3 Final and Binding Arbitration.

a. If the Parties do not agree in writing to a settlement of the Claim within fifteen (15) days of the Termination of Mediation, the Claimant shall have fifteen (15) additional days to submit the Claim to arbitration in accordance with the rules of arbitration promulgated or observed by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising

out of such Claim; however, nothing herein shall release or discharge Respondent from any liability to parties other than Claimant.

b. This subsection 13.4.3(b) is an agreement to arbitrate and is specifically enforceable under any applicable arbitration laws of the State of North Carolina. The arbitration award ("Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of North Carolina.

13.5 Allocation of Costs of Resolving Claims.

13.5.1 Subject to Section 13.5.2, each Party shall bear its own costs, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

13.5.2 Any Award that is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs, including reasonable attorney's fees, to the Award, such costs to be borne equally by all Respondents. Any Award that is equal to or less favorable to Claimant than any Respondents' Settlement Offer shall award such Respondent its Post Mediation Costs, including reasonable attorney's fees.

13.6 Enforcement of Resolution.

If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 13.4 and any Party thereafter fails to abide by the terms of such agreement, or if any Party fails to comply with an Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 13.4. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

Article XIV
Mortgagee Provisions

The following provisions are for the benefit of holders, insurers, and guarantors of First Mortgages on Lots in the Community. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

14.1 Notices of Action.

An institutional holder, insurer, or guarantor of a First Mortgage which provides a written request to the Association, such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an ("Eligible Holder"), shall be entitled to timely written notice of:

a. any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a First Mortgage held, insured, or guaranteed by such Eligible Holder;

b. any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage or such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Governing Documents relating to such Lot or the Owner or Occupant which is not cured within sixty (60) days of receiving notice of such violation;

c. any lapse, cancellation or material modification of any insurance policy the Association maintains; or

d. any proposed action which would require the consent of a specified percentage of Eligible Holders.

14.2 No Priority.

No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Areas.

14.3 Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

14.4 Failure of Mortgagee To Respond.

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

14.5 Construction of Article XIV.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the Bylaws, or the Planned Community Act for any of the acts set out in this Article.

Article XV
Changes in Common Areas

15.1. Condemnation.

If a Lot or portion thereof shall be taken by eminent domain, compensation and the Owner's interests in the Common Areas shall be appropriately allocated among all other Owners. If any part of the Common Areas shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members representing at least sixty-seven percent (67%) of the total votes in the Association) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

a. If the taking or conveyance involves a portion of the Common Areas on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining Common Areas to the extent available, unless within sixty (60) days after such taking Declarant, during the Declarant Control Period, and Members representing at least eighty percent (80%) of the total votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Article VIII regarding funds for restoring improvements shall apply.

b. If the taking or conveyance does not involve any improvements on the Common Areas, if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

15.2. Transfer, Partition, or Encumbrance of Common Areas.

a. Except as this Declaration otherwise specifically provides, the Common Areas shall not be judicially partitioned or subdivided into Lots, nor shall the ownership of the Common Areas be otherwise divided or encumbered in any manner after conveyance to the Association, except upon the approval of Members representing at least eighty percent (80%) of the total votes in the Association, including a majority of the votes held by Members other than Declarant, and the consent of Declarant if during the Declarant Control Period.

b. The Association shall have the authority, subject to approval of Members representing a majority of the total votes in the Association, including a majority of the votes held by Members other than Declarant, and the consent of Declarant, if during the Declarant Control Period, to transfer portions of the Common Areas and improvements thereon to appropriate governmental entities or tax-exempt organizations for the maintenance, operation, and preservation thereof; provided, any such transfer shall not relieve such Common Areas from the rights and benefits of the Association and the Members as provided in this Declaration and shall otherwise be subject to the provisions of this Declaration.

Article XVI
Fines and Suspension of Privileges or Services

Notwithstanding any other provision herein, the Board may impose fines on an Owner and/or suspend an Owner's right and privilege to use certain Common Areas for failure of that Owner, his lessees, agents or invitees, to abide by this Declaration, the Rules and Regulations or the administrative rules and regulations governing Common Areas. The procedure for the Board to do so shall be as set forth in the Bylaws. The Board shall not impose any such fine or suspension unless and until the Owner charged has been given notice of the charge, opportunity to be heard by and present evidence to the Board and notice of the Board's decision. Suspensions may be imposed for a reasonable period of time and/or until a violation or delinquency is cured.

Article XVII
Miscellaneous

17.1 Parties Bound. All persons and entities acquiring any interest in any of the Lots, including but not limited to lessees, shall be bound by the provisions of this Declaration. All guests and invitees of such persons and entities, and any other occupants of any of the Lots, shall likewise be bound.

17.2 Duration. The provisions of this Declaration shall run with and bind the Property perpetually, unless and until the Community is terminated pursuant to N.C.G.S. Section 47F-2-118.

17.3 Amendment. Except as provided in Section 11.11 above, this Declaration may be amended only by a written instrument executed by the Association and authorized by the affirmative vote of at least sixty-seven percent (67%) of all Lots, cast in person or by proxy at a meeting held in accordance with the Bylaws of the Association. Any amendment must be recorded to be effective. Notwithstanding anything contained herein to the contrary, any amendment serving to revise Section 7.2.4 herein shall not be valid unless reviewed and approved in writing by the governmental entity having jurisdiction over the Stormwater Control Facilities.

17.4 Enforcement. Subject to the provisions of Article XIII above, the Declarant, any Owner and/or the Association shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants and obligations imposed by this Declaration. Subject to the provisions of Article XIII above, the Declarant, the Association or any Lot owner may bring any action necessary to enjoin any violation or breach of the provisions of this Declaration. The Declarant, the Association and/or any Owner shall be entitled to recover reasonable attorney's fees incurred in bringing and prosecuting such action from the breaching or violating Owner(s).

17.5 Failure to Enforce Not a Waiver. The failure to enforce any right, reservation, covenant or restriction contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so thereafter.

17.6 Assignment by Declarant. Any or all of the rights, powers, easements, functions and obligations reserved or given to the Declarant in this Declaration may be assigned to the Association, and the Association shall accept and assume responsibility for any or all such rights, powers, easements, functions and obligations when requested by the Declarant. Any such assignments or transfer shall be made by a Recorded Document, executed by both the Declarant and the Association, and the Association shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by the Declarant. The Declarant, but not the Association, shall thereupon be released from such obligations and duties.

17.7 Notice of Sale, Lease or Acquisition. In the event an Owner sells or leases such Owner's Lot, the Owner shall give to the Association, in writing, prior to the effective date of such sales or lease, the name of the purchaser or lessee of the Lot and such other information as the Association may reasonably require. Upon acquisition of a Lot, each new Owner shall give the Association, in writing, the name and mailing address of the Owner and such other information as the board may reasonably require.

17.8 Variances. Notwithstanding anything to the contrary contained herein, the Declarant and/or the Association or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if the Declarant or the Association determine that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

17.9 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect.

17.10 Captions. The captions herein are inserted only as a matter of convenience and for reference, and shall not be construed to define, limit or describe the scope of any provision of this Declaration.

17.11 Law Controlling. This Declaration shall be construed and governed pursuant to the laws of North Carolina.

17.12 References to Statutes. All references herein to any statutory provision shall be construed to include and apply to any subsequent amendments to or replacements of such provision.

17.13 Assessments for Public Improvements/Ad Valorum Taxes. Pursuant to Article IX above, the Association is authorized to levy Base Assessments against Owners for the payment of any assessments for public improvements or taxes that may be assessed against the Association or the Common Areas. In the event that the Association defaults in the payment to the jurisdiction entitled thereto of any assessments for public improvements or ad valorem taxes levied against the Common Areas, and in the event that said default shall continue for a period of six (6) months, each Owner shall become personally obliged to pay to the jurisdiction a pro-rated

portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the jurisdiction by the total number of Lots in the Association. If the sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the Owner, his heirs, devisees, personal representatives, and assigns. The taxing or assessing jurisdiction may either bring an action at law against the Owner personally obliged to pay the same, or may elect to foreclose the lien against the property of the Owner.

[The Remainder of this Page Intentionally Left Blank.]

IN WITNESS WHEREOF, SFTEN, LLC, as the Declarant hereunder, has caused this instrument to be executed as of the day and year first above written.

SFTEN, LLC
a Delaware limited liability company, Declarant

By: Bradford C. Brundage

Name: Bradford C. Brundage

Its: Division President

STATE OF South Carolina
COUNTY OF Horry

I, Karen R. Hucks, a Notary Public of the County and State aforesaid, certify that Bradford C. Brundage personally appeared before me this day and acknowledged that s/he is Vice President of SFTEN, LLC, a Delaware limited liability company, and that s/he, being duly authorized to do so, executed the foregoing for and on behalf of said limited liability company.

Witness my hand and official stamp or seal, this 25th day of Feb, 2020

NOTARY SEAL

Karen R. Hucks
Signature of Notary Public
My Commission Expires: March 10, 2024

Karen R Hucks
State of SC - County of Horry
My Commission Expires:
March 10, 2024

EXHIBIT A

Land Initially Submitted

Tract One:

All of those certain tracts of parcels of land, lying and being in Topsail Township, Pender County, North Carolina, more particularly described as follow:

BEING ALL of Tract 1, containing 44.87 acres, Tract 2, containing 55.33 acres, and Tract 4, containing 20.25 acres, as shown on that certain plat entitled, Tract Map for Coterra 9, LLC prepared by Cape Fear Engineering filed in Map Book 61, Pages 8 and 9, Pender County Registry.

Together with the rights, easements and benefits of and subject to the terms and conditions of:

That certain Deed of Easement recorded in Book 4627, Page 2103, as amended by that certain First Amended Deed of Easement in Book 4650, Page 1602, as the same are shown in the Tract Map for Coterra 9, LLC prepared by Cape Fear Engineering filed in Map Book 61, Pages 8 and 9, Pender County Registry.

Tract Two:

All of those certain tract or parcel of land, lying and being in Topsail Township, Pender County, North Carolina, more particularly described as follows:

Commencing at an existing railroad spike in the apparent centerline of Belt Road, as shown and recorded in Map Book 59, Page 103 of the Pender County Registry; thence South 18°17'48" East a distance of 38.34' to an iron rebar set, said point being the place and point of beginning for Tract 6;
Thence South 18°19'40" East a distance of 575.28' to an iron rebar found;
Thence South 44°24'56" East a distance of 427.34' to an iron pipe found;
Thence South 37°39'19" East a distance of 399.67' to an iron pipe found;
Thence South 35°03'59" East a distance of 387.88' to an iron pipe found;
Thence South 03°58'37" East a distance of 513.86' to an iron rebar found;
Thence South 48°41'04" West a distance of 958.85' to an iron rebar found;
Thence North 30°48'45" West a distance of 78.67' to an iron rebar found;
Thence North 07°24'13" West a distance of 81.10' to an iron rebar found;
Thence North 35°17'37" West a distance of 152.30' to an iron rebar found;
Thence North 89°12'55" West a distance of 303.22' to an iron rebar found;
Thence with a curve turning to the left with an arc length of 311.22', with a radius of 2,540.00', with a chord bearing of North 03°22'21" West, with a chord length of 311.02' to an iron rebar found;
Thence with a reverse curve turning to the right with an arc length of 677.86', with a radius of 960.00', with a chord bearing of North 13°20'45" East, with a chord length of 663.87' to an iron rebar found;

Thence with a reverse curve turning to the left with an arc length of 660.20', with a radius of 730.00', with a chord bearing of North 07°39'56" East, with a chord length of 637.93' to an iron rebar found;
Thence with a compound curve turning to the left with an arc length of 325.74', with a radius of 530.00', with a chord bearing of North 35°51'10" West, with a chord length of 320.64' to an iron rebar found;
Thence North 53°27'27" West a distance of 152.34' to a point in the eastern right of way line of Belt Road (public right of way);
Thence along and with the eastern right of way of Belt Road the following: North 41°41'24" East a distance of 48.39' to a point;
Thence North 35°48'25" East a distance of 60.27' to a point;
Thence North 31°58'02" East a distance of 58.89' to a point;
Thence North 31°45'29" East a distance of 57.63' to a point;
Thence North 31°04'08" East a distance of 57.08' to a point;
Thence North 31°08'44" East a distance of 58.20' to a point;
Thence North 31°21'23" East a distance of 56.96' to a point;
Thence North 31°36'43" East a distance of 55.72' to a point;
Thence North 31°26'08" East a distance of 42.69' to an iron rebar set;
which is the point of beginning,

Being the place and point of beginning for Tract 6, containing 1,652,722 sf or 37.94 acres and being all of Tract 6 as shown on an unrecorded map prepared by Cape Fear Engineering, Inc.

Together with the rights, easements and benefits of and subject to the terms and conditions of:

That certain Deed of Easement recorded in Book 4627, Page 2103, as amended by that certain First Amended Deed of Easement in Book 4650, Page 1602, as the same are shown in the Tract Map for Coterra 9, LLC prepared by Cape Fear Engineering filed in Map Book 61, Pages 8 and 9, Pender County Registry

Tract Three:

Easement rights pursuant to that Roadway Easement Agreement recorded in Book 4654, Page 831, Pender County Registry, in the following property:

Beginning at a point in the eastern right of way line of N.C. Highway 50, said point being the southwest corner of Tract A-1 as shown and recorded on Map Book 59, Page 103 in the Pender County Register of Deeds Office, said point also being the southeast corner of Lot 84 as shown and recorded on Map Book 9, Page 53 in the Pender County Register of Deeds Office;

Running thence from said beginning point along and with the eastern right of way of N.C. Highway 50 North 27°24'51" West a distance of 52.73' to an iron rebar set:

Thence leaving said right of way North 62°07'34" East a distance of 7.40' to an iron rebar set;

Thence with a curve turning to the right with an arc length of 108.84', with a radius of 400.00', with a chord bearing of North 69°55'17" East, with a chord length of 108.51' to an iron rebar set;

Thence North 77°43'00" East a distance of 95.40' to an iron rebar set;

Thence with a curve turning to the left with an arc length on 105.85', with a radius of 400.00', with a chord bearing of North 70°08'10" East, with a chord length of 105.54' to an iron rebar set in the southern line of Lot 84;

Thence along and with the southern line of Lot 84 South 62°33'19" West a distance of 311.73' to a point; which is the point and place of beginning, having an area of 8,503 s.f., 0.20 acres, more or less.

EXHIBIT B

Land Subject to Annexation in Future

Any land within one mile of the Property described in **Exhibit A** of this Declaration.

EXHIBIT C
Initial Rules and Regulations

The following restrictions shall apply to all of the Community until such time as they are amended, modified, repealed, or limited pursuant to Article IV of the Declaration:

1. General. The Community shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for Declarant to assist in the sale of any property or portion thereof as described in **Exhibit A** or **B**, offices for any property manager retained by the Association, and business offices for Declarant or the Association) consistent with this Declaration and any Supplemental Declaration.

2. Restricted Activities. The following activities are prohibited within the Community unless expressly authorized by, and then subject to such conditions as the Board may impose:

(a) Parking any vehicles on streets or thoroughfares within the Community or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages; however, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Areas. For the purposes of these Rules and Regulations, a "commercial vehicle" shall mean any vehicle with ladders, work equipment, or related storage on the exterior of the vehicle, or a vehicle greater than ¾ of a ton;

(b) Raising, breeding or keeping animals, livestock or poultry of any kind, except that a reasonable number of dogs, cats or other usual and common household pets may be permitted on a Lot. Any animal which, makes objectionable noise or, in the Board's judgment, constitutes a nuisance or inconvenience to the Occupants of other Lots, shall be removed by the owner upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Owners shall clean up behind any pet while walking such pet on any Common Property. Pets shall be registered, licensed, and inoculated as required by any applicable state, municipal or local law, ordinance, rule or regulation;

(c) Any activity that emits foul or obnoxious odors outside the Lot or creates noise or other conditions, which tend to disturb the peace or threaten the safety of the Occupants of other Lots;

(d) Any activity that violates local, state, or federal laws or regulations; provided, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Lot;

(f) Any noxious or offensive activity (including, without limitation, barking dogs) which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Areas or to the Occupants of other Lots;

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Lot;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to Occupants of other Lots, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Dumping grass clippings, leaves, or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Community, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff, and Declarant and builders may dump and bury rocks and trees removed from a building site on such building site;

(k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers. Such containers shall be either screened from view or kept inside, except as reasonably necessary for garbage pick ups;

(l) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent;

(m)Subdivision of a Lot into two or more Lots, or changing the boundary lines of any Lot after a subdivision plat including such Lot has been approved and recorded, except that Declarant shall be permitted to subdivide or replat Lots it owns;

(n) Swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams, or other bodies of water within the Community. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams, or other bodies of water within or adjacent to the Community;

(o) Use of any Lot for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Lot rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program;

(p) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(q) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers, gas grills, and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment;

(r) Any business, trade, or similar activity, except that an Owner or Occupant residing in a Lot may conduct business activities within the Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (ii) the business activity conforms to all zoning requirements for the Community; (iii) the business activity does not involve door-to-door solicitation of residents of the Community; (iv) the business activity does not, in the Board's judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked within the Community which is noticeably greater than that which is typical of Lots in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents within the Community, as may be determined in the Board's sole discretion.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Lot shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a builder approved by Declarant with respect to its development and sale of the Community or its use of any Lots which it owns within the Community;

(s) Capturing, trapping, or killing of wildlife within the Community, except in circumstances posing an imminent threat to the safety of persons using the Community;

(t) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Community;

(u) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Lot without prior approval pursuant to Article V;

(v) Operation of motorized vehicles on pathways or trails maintained by the Association;

(w) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Lot, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article V of the Declaration. This shall include, without limitation, landscaped or grassed areas; signs; basketball hoops, swing sets, and similar sports and play equipment; clotheslines; garbage cans; woodpiles; and hedges, walls, dog runs, animal pens, or fences of any kind. Under no circumstances shall the ARC approve the replacement of all or a majority of the grassed area of a Lot with mulch or stone;

(x) Hanging of sheets, towels, clothes or laundry in windows or anywhere on a Lot so as to be visible from any roadway or any other Lot.

3. Prohibited Conditions. The following shall be prohibited within the Community:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community;

(b) Structures, equipment, or other items on the exterior portions of a Lot which have become rusty, dilapidated, or otherwise fallen into disrepair;

(c) Installation of any sprinkler or irrigation systems or wells of any type, other than those initially installed by Declarant or a Declarant approved builder, which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Community, except that Declarant and the Association shall have the right to draw water from such sources;

(d) Satellite dishes, antennas, and similar devices for the transmission of television, radio, satellite, or other signals of any kind, except that Declarant and the Association shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of the Community; and (i) satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (ii) satellite dishes designed to receive video programming services via multi point distribution services which are one meter or less in diameter or diagonal measurement; or (iii) antennas designed to receive television broadcast signals ((i), (ii), and (iii), collectively, "Permitted Devices") shall be permitted; however, any such Permitted Device must be placed in the least conspicuous location on the Lot (generally being the rear yard) at which an acceptable quality signal can be received and is not visible from the street, Common Areas, or neighboring property or is screened from the view of adjacent Lots in a manner consistent with the Community-Wide Standard and the Architectural Guidelines; and

(e) Installation of exterior decorative items, including but not limited to statuary, fountains or wishing balls, but not including flags, political signs, and/or permitted exterior decorative lights.

4. Leasing of Lots. "Leasing," for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Lot by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. The Board may require a minimum lease term; however, in no case shall such term be shorter than six (6) months. No owner shall lease any Lot without first providing all lessees with copies of the Governing Documents. Each lease shall require all lessees to acknowledge receipt of copies of all of the Governing Documents and to comply with and adhere to all of the Governing Documents. A true copy of each executed lease, together with such additional information as may be required by the Board, shall be given to the Board by the Lot Owner within ten (10) days of execution of the lease. This Section 4 shall not apply with respect to any Lot subject to a mortgage which is insured or guaranteed by the Federal Housing Administration or the Veterans Administration, or where the provisions of this Section 4 are otherwise prohibited by law.