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**NORTH CAROLINA
ONslow COUNTY**

**MASTER DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF TUSCANY VILLAS**

This Master Declaration of Covenants, Conditions and Restrictions of Tuscany Villas is made this the 26th day of September, 2012, by Tuscany Villas Builders, Inc., a North Carolina Corporation, hereinafter referred to as the "Declarant."

BACKGROUND STATEMENT

A. The Declarant is either the owner or intends to acquire certain real property located in Onslow County, North Carolina and described in **Exhibit A**, attached hereto and incorporated herein by reference as if fully set forth herein (the "Development Area");

B. The Declarant intends to subdivide all or a portion of the Development Area into residential townhome lots, common areas and public rights of way and to create from the Development Area and such additional land as may be subjected to this Declaration pursuant to Article X below, a planned community to be known as Tuscany Villas (the "Community")

C. The Declarant desires to impose certain restrictive and protective covenants upon the property described in **Exhibit B**, attached hereto and incorporated herein and any other real property which is subjected to this Declaration by Supplemental Declaration or Annexation Declaration (the "Property") to protect and to promote the beneficial ownership, use and enjoyment of all residential lots and units located within the Community.

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THEREFORE, pursuant to Chapter 47F of the North Carolina General Statutes (the "Planned Community Act"), the Declarant hereby executes this Declaration to create Tuscan Villas, 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:

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

"Articles of Incorporation" shall mean the Articles of Incorporation for Tuscan Villas Homeowners' Association, Inc., a North Carolina nonprofit corporation.

"Association" shall mean Tuscan Villas Homeowners' Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

"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.

"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.

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

"Common Area" shall mean all property, and any improvements thereon, wherever located, owned or leased by the Association or subjected to an easement or license in favor of the Association for the common use and enjoyment of Members. Common Area shall include any drainage easements, stormwater pipes, detention and retention facilities serving more than one Lot and not accepted by any governmental authority for maintenance. Common Area shall specifically include any streets conveyed to the Association which have not yet been accepted by the North Carolina Department of Transportation.

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“Declarant” shall mean Tuscan Villas Builders, Inc., a North Carolina corporation, or any successor or assign designated as Declarant in a Recorded Document executed by the immediately preceding Declarant.

“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 Property or Development Area.

“Declaration” shall mean this Master Declaration of Covenants, Conditions and Restrictions of Tuscan Villas, a North Carolina planned Community, and any amendments hereto or restatements hereof.

“Governing Documents” shall mean, collectively, this Declaration, any applicable Supplemental or Annexation Declaration, the Articles of Incorporation and the Bylaws, as the same may be amended from time to time.

“Lot” shall mean any separate parcel of land within the Community designated for separate ownership or occupancy and residential use with the exception of the Common Area, if any, and includes any improvements thereon.

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

“Mortgage” shall mean a deed of trust recorded in the Onslow County Registry that is a lien against any Lot. “Mortgagee” shall refer to a beneficiary or holder of a Mortgage.

“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.

“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.

“Property” shall mean any and all real property subject to this Declaration or hereafter subjected to this Declaration by Supplemental Declaration or Annexation Declaration. The term Property shall include the term “Community.”

“Recorded Document” shall mean any document, including any map or plat of survey, recorded in the Office of the Register of Deeds of Onslow County, North Carolina.

“Special Assessments” shall mean assessments levied in accordance with Article IX Section 4 below.

“Specific Assessments” shall mean assessments levied against one or more lots under the provisions of this Declaration.

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“Supplemental Declaration” shall mean any declaration of covenants, conditions and/or restrictions that Declarant may file in the Onslow 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.

“Townhome Building” shall mean any building comprised of residences located upon Townhome Lots.

“Townhome Lot” shall mean any Lot designated for construction and maintenance of a townhome residence.

“Townhome Property” shall mean any portion of the Property that Declarant shall designate for development and subdivision into Townhome Lots and Townhome Common Area.

ARTICLE III: TUSCANY VILLAS HOMEOWNERS’ ASSOCIATION

The Declarant, their successors and/or assigns, shall form or cause to be formed, an Association as a nonprofit corporation pursuant to the rules and requirements of Chapter 55A of the North Carolina General Statutes. 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:

Section 1. Purposes. The purposes of the Association shall be:

- A. To maintain, oversee, inspect, maintain, repair, replace and preserve all Common Areas and all decorative and protective structures (including but not limited to entry monuments and buffer walls), utilities, landscaped areas and other improvements located thereon, if any;
- B. To maintain any and all streets, roadways and street rights of way within the Community unless and until such streets and roadways are accepted into the maintenance of the North Carolina Department of Transportation, Division of Highways. **By acceptance of a deed to any Lot within the Community, the Owners acknowledge that they are aware that Kenan Loop as shown on the aforesaid plat of Tuscan Villas is currently a private road and that there are no current plans for the maintenance of said roadway to be accepted into maintenance by the North Carolina Department of Transportation or the City of Jacksonville, though the Declarant reserves the right to have it accepted into such maintenance in the future.**
- C. To enforce the provisions of the Governing Documents;
- D. To perform all duties and functions allotted to owner’s associations pursuant to Article 3 of the Planned Community Act;

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E. To enforce the provisions of the Stormwater Management Permit SW8 080912, to enforce each Owner's obligations with respect to all applicable North Carolina Sedimentation and Control Permits; said authority to be exercised, if and only if, and when and only when, Declarant transfers the Permit to the Association. Declarant shall have the absolute right to transfer said permit to the Association and the Association shall accept said transfer. Declarant is granted full authority on behalf of the Association to execute any acceptance of said permit on behalf of the Association and the Association shall execute any and all documents necessary to accept said permit. The Association hereby constitutes and appoints Declarant as its agent and attorney-in-fact to accept/make on behalf of the Association any such conveyance and reconveyances and to execute on behalf of the Association any and all documents, including, without limitation, deeds and easements, necessary or convenient to effectuate and document any such conveyances and reconveyances, and all acts of such attorney-in-fact are hereby ratified. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise. The Association, along with the owner of any Lot, shall have the right to enforce each Owners' obligations under the Declaration.

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

Section 2. Powers and Responsibilities. The Association shall have all powers and responsibilities and shall perform all duties and functions allotted to owners' associations by Article 3 of the Planned Community Act, the terms and provisions of which are incorporated herein, together with any other powers and responsibilities described in this Declaration. 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.

Section 3. Management. Management of the affairs of the Association shall be the right and responsibility of the Board of Directors of the Association, provided, however, that subject to NCGS 47F-3-103(d) the Declarant shall appoint and remove all members of the Board of Directors and officers until the end of the Declarant Control Period.

Section 4. Voting Rights and Meetings. On matters of Association business submitted to vote of the membership, there shall be two (2) 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 one (1) vote 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

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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.

Section 5. 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.

Section 6. Cost of Maintenance. All costs of the Association in meeting its responsibilities pursuant to this Section shall be Common Expenses. Common Expenses shall mean and refer to, but shall not be limited to the following:

A. The actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board of Directors pursuant to this Declaration, the Articles of Incorporation of the Association and its Bylaws;

B. All amounts expended by the Association for the maintenance, repair and replacement of the Common Area and any improvements thereon, including maintenance, repair and replacement of the entrance signs or any other signage installed by the Association or the Declarant for the benefit of the Community including the landscaping thereof.

C. All amounts expended by the Association in accordance with Articles V, VI, VII and VIII holding and being responsible for the obligations of the Stormwater Management Permit SW8 080912, and overseeing, supervising, administering, managing, repairing, replacing and insuring all Stormwater Management facilities located within the Property as required by the Declaration and all state and federal rules and regulations regarding same, and all amounts expended in enforcing the provisions of the Permit;

D. All amounts expended by the Association for the maintenance, repair and replacement of any street within the property owned by the Association, including streets not yet accepted by the North Carolina Department of Transportation or the City of Jacksonville;

Section 7. Liability. Owners, Occupants and their guests shall use the common areas maintained by the Association and all other Common Property 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. 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. 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.

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ARTICLE IV: USE AND OCCUPANCY OF LOTS AND COMMON AREAS

Section 1. Land Use and Building Type. The Lots and Common Area shall be used for single family residential and related purposes only, subject to and consistent with the Governing Documents; 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. Furthermore, a lot may be dedicated by the Declarant for a street or roadway connecting portions of the Community to other portions of the Community or connecting the Community to adjacent or other property. Notwithstanding the above, home business use ancillary to the primary residential use of a Lot is permitted by a Lot owner or occupant 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;

Section 2. Allowable and Prohibited Structures. No structure shall be erected, altered or permitted to remain on any lot other than a single, one family dwelling (which may be part of a multi-unit building) not to exceed the height allowed by then current zoning, a private garage which may contain living quarters for domestic servants or family members of the lot Owner only, provided the same are constructed in line with the general architectural design and construction standards used as the dwelling itself. Each dwelling shall contain a minimum of 1200 heated square feet of living space, and if two or more story, the first floor must contain a minimum of 600 heated square feet of living space. Garages, decks, terraces, open porches, basements and like areas shall not be included in the calculation of heated square footage for this section. This covenant shall not be construed as prohibiting the use of a new dwelling as a model home for sales or rental purposes.

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporary or permanently. No house trailer, mobile home, manufactured home, modular home, camper or like vehicle shall

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be allowed on the property at any time, or any other structure which is finished or partially finished at a manufacturing unit or plant and transported for quick assembly or which is designed to be disassembled and relocated shall be allowed. It is specifically the intention and purpose of this covenant to prohibit the location of mobile homes, manufactured homes, house trailers, modular houses, relocatable houses, or similar type structures on the property. It is provided however, that the Declarant may grant permission for any such temporary storage of materials during construction but any such structure so approved shall not be used at any time as a dwelling. This covenant shall not be construed as prohibiting the use of such a structure as a sales/rental model, office or construction site facility.

Section 3. Building Location. No building, residence, garage or other permitted accessory building shall be located on any Lot nearer to the front line, any side street line, interior or rear lot line, than as shown on the recorded plat. For the purpose of these covenants, eaves, steps, open porches, and carports shall not be considered as a part of the building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. However, in the event a multi-family unit shall encroach upon an adjoining lot or any part of the Common Area as initially constructed, an easement shall exist in favor of the owner of the encroaching unit to allow the encroaching portion to remain as constructed and if destroyed or damaged, said unit may be reconstructed as originally built. An error of not more than ten percent (10%) in the location of a building on a lot with respect to the minimum set back shall not be considered a violation of this covenant.

Section 4. Fundamental Restrictions on Occupancy. 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.

Section 5. Subdivision of Lots. No lot shall be subdivided if the result of each subdivision is separate ownership of less than a whole lot; provided, however, that the Declarant, its successors or assigns, reserve the right to make minor boundary line adjustments between lots so long as said adjustment does not exceed fifty percent (50%) of the total area of a given lot; and further provided that one lot may be combined with another lot or lots or a portion thereof to create a larger lot, in which case this Declaration shall be construed to apply to the larger lot so created. Nothing contained herein shall prohibit the Owner of a Lot from conveying by deed or easement a portion of a Lot to an adjoining Lot Owner for the purpose of curing an encroachment or setback violation. No subdivision or combination of a Lot or Lots shall be made the result of which is to reduce the total number of lots in the subdivision for the purpose of collection of dues and assessments by the Association. If a Lot or a portion of a Lot are combined, then the Owner of the resulting Lot shall have a single membership in the Association but shall be responsible for the payment of the dues and assessments to the Association of the pro rata portions of combined Lots.

In the event any lot is deemed to be unbuildable and subsequently deeded to the Association or dedicated by the Declarant as recreation area or open space and a document evidencing same is duly recorded in the Office of the Register of Deeds of Onslow County, then there shall be no further dues or assessments owed from the date of recording of said document.

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Section 6. Clotheslines. Exterior clotheslines shall not be allowed on any Lot at any time. Further, no sheets, towels, clothes or laundry shall be hung in any windows or anywhere on a Lot so as to be visible from any roadway or any other Lot.

Section 7. Signs. No sign, billboard, or other advertising of any kind, including without limitation, professionally prepared "for sale" and "for rent" signs, shall be placed or erected on any Lot, right of way, or Common Area save and except a professionally prepared "for sale" or "for rent" sign not to exceed six (6) square feet in size. Although approval of the Architectural Review Committee ("ARC") is not required prior to the display of such signs, the ARC may itself remove, have removed, or require the removal of any such sign which in its opinion would not otherwise be allowed under Article V of this Declaration or as amended or supplemented. A valid easement shall exist on any lot for such removal by the ARC or its agents. Provided, nothing shall prohibit or limit in any manner construction or marketing signs on any Lot or at the front entrance to the Community placed by a builder and/or real estate broker and authorized by the Declarant to designate a job site or advertise new homes for sale provided said signs are neat in appearance. However, said signs installed by such builder and/or real estate broker must be immediately removed upon final completion of all construction and/or marketing. Nothing herein shall prohibit any sign erected or authorized by the Declarant, its agents, successors and/or assigns.

The rights of Owners and occupants to display on their Lots flags, political signs, banners and symbols normally displayed in or outside of residences in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, number, size, place and manner restrictions regulating displays which are visible from outside the Lot consistent with the provisions of 47-F-3-121 of the North Carolina General Statutes.

Section 8. 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. The Declarant reserves the right for itself, its successors and assigns, to contract for garbage collection services for each lot in the subdivision and the lot owner shall be responsible for the payment of such garbage services to the company providing the same.

Section 9. 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.

Section 10. Vehicles, Boats, Storage, Travel Trailers, etc. 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 without current inspection sticker, vehicle over 5000 pounds empty weight, camper trailer, motor homes, boat or bus shall be parked

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overnight on or in front of any Lot, however, guests of an owner may so park such vehicle for a period not to exceed seven (7) days each calendar year. No vehicle located on a Lot may be used as a dwelling, even temporarily. Except when used during and as a part of construction of a dwelling on the Lot, no trucks or buses (other than pickup trucks of two and a half ton capacity or less, small passenger vans or small trailers) shall be parked overnight on any Lot. A boat and/or boat on its trailer and recreational vehicles may not be parked or stored on a Lot at any time. Any motor vehicle parked on any Lot shall have a current license plate, registration and inspection sticker and no automobile, other vehicle(s), motorcycle(s) or other similar items shall be repaired or placed "on blocks" or stands except in an enclosed garage.

No elevated tanks of any kind shall be erected, placed, or permitted on any part of the Community except as approved by the Declarant or ARC. Any tanks for use in connection with any residence construction in the Community, including tanks for the storage of fuels, must be buried, walled or screened by shrubbery or landscaping, unless such tanks are located within an area that is fenced, in which event no further screening is required. It is not required that the tanks be concealed from the view of neighboring lots, road, or streets. No on-site storage of gasoline, heating, or other fuels shall be allowed on any Lot, except that a reasonable amount of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment;

All garbage cans, raw firewood, bicycles, motorcycles, equipment, or other items shall be screened or fenced to conceal them from view of neighboring lots, roads, or streets. Plans for all enclosures of this nature must be approved by the Declarant or ARC.

Section 11. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain within the sight triangles shown on the recorded plat of the Lots in the Community or on any corner lot within the triangular area formed by the street property lines and the line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement.

No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 12. Drainage. Drainageways shall conform to the requirements of all lawful public authorities, to the full extent of the authority given them by law. Further, Declarant may, as its option, require more restrictive drainageways if the same would promote the best interest of the Community.

Section 13. Driveways/Parking. All driveways constructed on any lot shall be paved with either asphalt or concrete and shall be constructed in accordance with the North Carolina Department of Transportation and North Carolina Highway Commission standards. The use or construction of a headwall or other ornamental structure, gravel, rock or other material in and around the driveway culvert and entrance may be prohibited. An Owner shall provide a minimum of one (1) paved off-street parking spaces, excluding garage space(s) and shall provide at least one parking space per automobile or other vehicle owned and regularly used at the lot.

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On street parking is allowed subject to approval by the Association and the ordinances of the City of Jacksonville.

Section 14. Swimming pools. No swimming pools of any kind shall be erected, placed, or permitted on any Lot, with the exception of small "kiddie pools" meant and used for small children not to exceed four (4) feet in diameter which pools must be located in the rear of the dwelling. Hot tubs, Jacuzzi's, and other similar facilities shall be allowed only as permitted by the Association and shall be screened and fenced. All such improvements shall be subject to approval and compliance with all governmental laws and regulations.

Section 15. Fence Minimum Requirements. No fences over six (6) in height shall be constructed between a point that begins midway between the front and back of the primary dwelling and ends at the back lot line of any Lot. No fences shall be allowed on any Lot between a point that begins midway between the front and back of the primary dwelling and the front yard of the Lot. The term fence shall include but not be limited to, a wall, fence, landscaping, berm or hedge, which act as a fence or privacy or security inducing structure. All fences must be made of vinyl or PVC and no fences shall be allowed at any location on a Lot which are made of wood, chain link or other wire fencing. Architectural review requirements set forth herein must be met prior to construction of any fence.

Section 16. Street Lighting Agreement and Utility Lines. The Declarant reserves the right to subject the Lots and Common Area in the Community to a contract with an electric utility company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to an electric utility company by each Owner. Pursuant to the aforesaid provisions, the Declarant has entered into an Underground Electric Service Land Development Agreement with Jones-Onslow Electric Membership Corporation (hereafter "Jones-Onslow") dated January 20, 2012, which agreement is incorporated herein by reference as if fully set forth. Said agreement provides, among other matters, that Jones-Onslow shall install, own and maintain street lighting service in accordance with Rate Schedule #7-A on file with Jones-Onslow as such is amended and superseded from time to time. Such street lighting facilities shall include one (1) 100 watt sodium vapor light on a 20 foot black pole for each six (6) Lots. Further all Lots and the Common Area within the Community shall be assessed a surcharge by Jones-Onslow in the amount of \$2.39 per month added to the monthly electric bill, which amount shall be subject to change as provided by the Service Rules and Regulations and electric rates of Jones-Onslow. This surcharge shall run with the land and shall be binding on the Owners so long as the agreement is in effect.

All electrical service and telephone lines shall be placed underground and no outside electrical lines shall be placed overhead unless prior written approval is given by the Declarant or the Association. Any waiver of these restrictions shall not constitute a waiver as to other Lots or lines.

Section 17. Structures within the Street Right of Way. No driveway headwall, column, fence, mailbox, newspaper delivery box, basketball goal or other structure or roadside obstruction, constructed or placed within the right of way of any street as shown on the recorded plat of the subdivision shall be allowed to remain unless approved by the ARC and no such structure shall be allowed to remain which prevents the Department of Transportation, the City

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of Jacksonville or other governmental entity from assuming maintenance of the streets and roadways within the Community.

Section 18. Mailboxes. The initial mailbox for the Lot shall be provided by the Declarant and any replacement or modification thereof shall be as approved by the Architectural Review Committee ("ARC"). By accepting a deed to any subject Property, Owner gives the ARC the right to remove any non-approved mailbox in a reasonable manner; all cost for same shall be paid by the Owner and all damages against the ARC are hereby waived.

Section 19. Offensive Activities Prohibited. No noxious or offensive activity shall be conducted upon any Lot or Common Area, nor shall anything be conducted thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood or to the Occupants of any Lot, including but not limited to:

- A. 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;
- B. 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;
- C. 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;
- D. 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.

All Lots, whether occupied or unoccupied, shall be well maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted to remain on any Lot.

Section 20. Antennas. There shall be no exterior antenna of any kind for receiving and/or sending of T.V., radio or other signals unless same have first been approved by the ARC.

Section 21. Screening. Satellite dishes, antennae, pet enclosures and the like shall not be located on a Lot unless they are located between the house and the rear lot line and screened from view by neighboring Lots and streets.

Section 22. Animals. No raising, breeding or keeping animals, livestock or poultry of any kind, except that a reasonable number of dogs, cats (the combined number of dogs and cats not to exceed three) 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. Rottweiler's, pit bulls, chows, Dobermans, Mastiffs, Boxers, bulldogs, wolf hybrids and other aggressive breeds of dogs shall not be allowed within the Community. Dogs shall be kept on a

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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 law.

Section 23. Exterior Lighting. All exterior lighting and lighting visible from any roadway or other Lot, with the exception of traditional holiday lighting, shall have a clear or white light bulb color.

Section 24. Termite Contracts Required. All Owners shall initiate and maintain a current termite inspection and repair contract with a licensed pest control company on the dwelling located on their Lot and provide proof of said contract to the Association annually. The said contract shall provide for an annual inspection and shall provide for repair of the structure in the event of damage by termites. The Association may subject any Lot and the improvements thereon to a termite contract and assess the cost thereof against the Lot for which the contract is provided, or alternatively, the Association may contract for a termite contract on all of the units as a common expense. Declarant or Association, its successor and/or assigns, reserves the right to enter upon any lot or dwelling for the purpose of inspection, treatment and maintenance and/or repair pursuant to the providing of any such termite contract. A valid easement shall exist on any Lot for such acts undertaken by the Association or its agents.

ARTICLE V: ARCHITECTURAL REVIEW COMMITTEE

Section 1. Submission of Plans and Specifications. Except for original and initial construction and subsequent modification of improvements by the Declarant on any lot which such construction is and shall be exempt from the provisions of this provision, no building, wall, fence, landscaping, berm or hedge which act as a fence or privacy inducing structure, pier, dock, ornamentation, or other structure or improvements of any nature shall be erected, place or altered on any lot until the construction plans and specifications, the proposed built-upon area (BPA) and a plan showing the location of the structure and landscaping as may be required by the Architectural Review Committee ("ARC") have been approved in writing by the ARC. Each building, wall, fence or other structure or improvements of any nature, together with any ornamentation or landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan so approved. Refusal of approval of plans, specifications and plots plans, or any of them, may be based on any ground, including purely aesthetic grounds which in the sole and uncontrolled discretion of said ARC deem sufficient. Any change in the appearance of any building, wall, fence or other structure or improvements and any change in the appearance of the landscaping (except the planting of flowers and shrubs indigenous to the area), shall be deemed an alteration requiring approval. The ARC shall have the power to promulgate such rules and regulations, as it deems necessary to carry out the provisions and intent of this paragraph.

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

Section 2. Architectural Review Committee. During the Declarant Control Period, the ARC shall consist solely of the Declarant or its designee. Upon delegation by Declarant or upon expiration of the Declarant Control Period, the Association, acting through an ARC appointed by the Board, shall assume jurisdiction over architectural matters. The ARC shall consist of at

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least three, but not more than seven, 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.

A majority of the ARC may take any action said Committee is empowered to take, may designate a representative to act for the ARC, and may, upon the approval of the Board of Directors, employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the ARC, the remaining members shall have full authority to designate a successor. The members of the ARC shall not be entitled to any compensation for services performed pursuant to this covenant. The ARC may establish a fee to cover the expense of reviewing plans and related data at the time plans are submitted for review in order to compensate any consulting architects, landscape architects, urban designers or attorneys.

Section 3. Architectural Review.

A. 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 Article 10 Section 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.

B. By Architectural Review Committee. Upon delegation by Declarant or upon expiration of the Declarant Control Period, the Association, acting through the ARC appointed by the Board, shall assume jurisdiction over architectural matters.

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C. 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 Declarant or their designee shall be the Reviewer so 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 Article 10 Section 1, unless earlier terminated by Declarant by a Recorded Document.

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.

D. Procedure.

(1) Within 30 days after receipt of all required plans, specifications and location information, the Reviewer shall submit in writing to the Owner of the Lot a response stating whether or not the requested improvements are approved. The response of the Reviewer may be an approval, a denial, an approval with conditions or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was inadequate and the 30 day time period for response shall only commence upon the receipt of the requested additional information. Unless a response is given by the Reviewer within 30 days, the plan shall be deemed approved. Conditional approvals may be granted and if approval with conditions is granted and thereafter construction begins, the construction shall be deemed approved by the owner of the lot of the conditions imposed.

(2) Refusal of approval of plans, specifications and plot plans or any one or more of them may be based upon any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of the Reviewer shall deem sufficient. The Reviewer shall make the following affirmative findings before any plans are approved:

- (a) That the improvements sought to be constructed will not have a negative economic impact on any other lot within the subdivision.
- (b) That all required specific buildings standards and other conditions contained within the Restrictive Covenants, By Laws and other subdivisions documents have been met.
- (c) That the improvements are architecturally compatible with proposed or constructed improvements on other lots within the subdivision.
- (d) That the natural features of the lot have been retained to the maximum extent possible.

Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U.S. Postal Service. 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 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

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specified in the notice of approval or unless the ARC grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant, or any aggrieved Member.

Section 4. No Waiver of Future Approvals. Each Owner acknowledges that the Persons reviewing applications under this Article will change from time to time and that discretion and opinions on all matters, including aesthetic ones, 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.

Section 5. 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. No variance shall (a) be effective unless in writing; (b) be contrary to the spirit of 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.

The Declarant reserves the right and the authority to allow encroachment by any Owner into the front setback lines, any side street lines, interior or rear lot lines or other setback lines or any drainage or utility easement described in this Declaration or as amended or shown on any recorded plat of the Community or further plat of the Development Area. Such variance may be granted prior to construction or after the commencement or completion of construction. In addition, the Declarant may also vary any provisions of this Declaration regarding the height or size of structures to be placed on Lots or in the Common Area.

Section 6. 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 Area 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.

Section 7. 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. 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.

ARTICLE VI: OWNERS' MAINTENANCE OBLIGATIONS AND RIGHTS OF DECLARANT AND ASSOCIATION TO PERFORM CERTAIN MAINTENANCE

Section 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 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.

Section 2. Association Responsibility. The Association shall maintain the following:

- A. All landscaped rights-of-way and all entry features;
- B. All streets and roadways within the Community and/or within any easement or licenses owned or held by the Association, unless such streets or roadways are maintained by some governing authority.
- C. All Common Areas, and all landscaping, paving, streets, structures and improvements of any nature located thereon;
- D. All ponds, streams and culverts located on the Property which serve as part of any drainage and storm-water retention system; and
- E. The lawns, grass, trees and shrubs on each Lot unless the Owner elects to maintain their own rear yard as set forth in Section 3 below.

Section 3. Owner's Responsibility. Except as provided in Section 2 above and Sections 4 and 5 below, each Owner shall maintain his Lot and all unimproved Common Area along the boundaries of his Lot (e.g., area between lot line and curb). Each Owner shall maintain all paving, structures and improvements of any nature whatsoever located on his Lot. Each Owner's maintenance of his Lot and adjoining, unimproved Common Area shall include but not be limited to:

- A. Keeping the exterior of their unit or improvements and betterments on their Lot maintained at all times, including but not limited to, painting, repairing, replacing and caring for all exterior improvements and betterments, siding, trim,

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foundations, roofs, gutters, downspouts, exterior building surfaces and glass surfaces.

- B. If the back yard of a lot is fenced at the time of original construction or if the Owner of any Townhome Lot elects to fence in the back yard of said Lot, then the said Owner shall maintain all or portions his or her rear yard, provided that such maintenance by the Owner does not hinder the Association in performing its required maintenance for that Lot or other Lots or common area. Said Owner may elect to plant harmonious trees, shrubs and flowers in his or her rear yard. No such maintenance by an Owner shall reduce any assessments payable by the Owner to the Association. If, in the opinion of the Association, any such Owner fails to maintain his or her rear yard in a neat and orderly manner, the Association may revoke the Owner's maintenance rights for a period of not more than one year and maintain the area within the fenced in area. In the event that the need for maintenance or repair by the Association pursuant to this subsection is caused through the willful or negligent act of any Owner, his family, guests, invitees or delegates, the cost of the maintenance of said fenced in area shall be assessed against the Lot(s) of such Owner(s) as a Specific Assessment pursuant to Section 4 below, and may be collected by the Association as provided in Article IX below.
- C. Keeping the area free and clear of all litter, trash, refuse and wastes;
- D. Pruning trees and shrubs planted by Owner;
- E. Complying with all governmental health and police requirements;

Section 4. Association's Right to Perform Owner's Responsibility. In the event the Owner of any Lot shall fail to maintain the Lot and/or the improvements situated thereon in a manner in keeping with this Declaration, in addition to any other rights set forth herein or provided by law, the Declarant and the Association shall have the right, but not the obligation, through their agents and employees, to enter upon said Lot and clear, clean, repair, maintain and restore the Lot, the exterior of any building and any other improvements erected thereon. This is included in the authority herein granted the power to clear Lots of undergrowth, rubbish, debris, weeds or grass. In the event the owner of any Lot shall damage or through the negligent failure to act allow damage to occur to any Stormwater Management Facilities or areas designated by the U.S. Army Corps of Engineers or CAMA as wetlands located on the owner's Lot or fail to comply with all applicable North Carolina Sedimentation and Erosion Control Permits, the provisions of the Clean Water Act or any other federal, state or local regulations regarding wetlands, in addition to any other rights set forth herein or provided by law, the Declarant and the Association shall have the right, but not the obligation, through their agents and employees, to enter upon said Lot and clear, clean, repair, maintain and restore the Stormwater Management Facilities and/or wetlands and to bring the Lot into compliance with the applicable North Carolina Sedimentation and Erosion Control Permits and all federal, state and local wetlands regulations. There is included in the authority herein granted the power to clear Lots or undergrowth, rubbish, debris, weeds or grass and to remove fill or to maintain, repair, replace and construct ditches and devices necessary to insure that such Lot is in compliance with such regulations.

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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.

Section 5. Rights of Way and Easements. No Owner, Occupant or other person or entity shall damage, interfere or obstruct the rights-of-way and easement areas reserved by Declarant or dedicated for public utility purposes and no structure, plantings or other material shall be placed or permitted to remain, or other activities undertaken which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of the flow of water through drainage channels in the easements, or which damage or interfere with established slope ratios or which create erosion problems or which violates any stormwater permits or wetlands provisions governing the Property. It is provided, however, that where the existing location of an easement or drainage channel reserved in this Declaration or shown on any recorded subdivision map of the Property would hinder the orderly development of the Lot on which the easement is located, the easement or drainage channel may be relocated by Declarant.

ARTICLE VII: INSURANCE

Section 1. Association. The Association shall obtain and continue in effect such insurance in such amounts as is the Board determines is necessary from time to time to protect the Common Area and the members and the Board. 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.

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Section 2. Individual Insurance. It shall be the obligation of each Owner to obtain and maintain insurance on their improvements their Townhome Lot. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees that this shall be an obligation between the Owner and all other Owners and the Association. Such insurance shall provide for coverage on all buildings and improvements on the Townhome Lot as required by the Association, but in no event less than an amount greater or equal to the insurable replacement value of the property as determined by the insurance company providing such coverage, to the extent that such coverage is available in the insurance market. Such coverage shall provide for protection against loss or damage by fire, wind, hail or other hazards as covered by a standard extended coverage endorsement, and such other risks as from time to time arise and shall be customarily covered with respect to townhome units. The Owner shall be responsible for any repairs not paid by any insurance as a result of the application of any policy deductible. The Association shall be named as an additional insured on any policy and the provisions of such policy must provide for notice to the Association prior to cancellation. Proof of such insurance shall be provided to the Association annually and otherwise as may be directed by the Board of Directors.

In the event any Owner fails to procure and maintain insurance as provided herein or as otherwise directed by the Board of Directors, the Owner shall personally be liable for and responsible for the costs of any repair which is required to be insured but which is not insured, and the same shall be a Specific Assessment payable by the Owner and against the Lot collectable as any other assessment.

In the event the Owner fails to procure and maintain insurance as directed by the Board of Directors and this Declaration, the Association shall have the right, but not the obligation, to provided notice of the Owner's duty to obtain and maintain insurance and if proof of such insurance is not provided to the Association is not provided within ten (10) days from the notice, then the Board of Directors shall have the right, but not the obligation, to procure insurance upon such terms, conditions and costs as it deems proper to protect the interest of the Association and the adjoining Lot owners. The costs of any insurance so obtained shall be a Specific Assessment payable by the Owner and against the Lot and collectable as any other assessment.

Owners may, at their option, obtain insurance coverage at their own expense upon their personal property and for their personal liability and living expenses and such other coverage as they desire.

Each Owner further covenants and agrees that in the event of a partial loss or partial damage or destruction resulting in less than total destruction of the improvements situated upon the Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event the structure is totally destroyed, Owner shall elect to rebuilt within sixty (60) days of loss. If Owner determines not to rebuild or to reconstruct, the Owner shall immediately restore the exterior of any party walls to a condition substantially the similar to the exterior of other units and within ninety (90) days of the loss remove all debris and return the Lot to substantially the natural state in which it existed prior to the beginning of construction. If owner fails to immediately so repair or reconstruct said party walls or fails to clear the Lot within ninety (90) days of the loss, the Declarant and/or the Association may do so and the cost thereof shall be assessed against the Owner as a Specific Assessment.

ARTICLE VIII: REPAIR AND RECONSTRUCTION OF ASSOCIATION PROPERTY

The Association shall have the authority and the duty to repair or reconstruct Common Area 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.

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.

ARTICLE IX: ASSESSMENTS AND ASSOCIATION FINANCES

Section 1. Purpose of Assessment. The assessment described herein and levied by the Association or Declarant shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners, residents and their Lots in the Community and for the improvements and maintenance, current and capital, of the Common Area including but not limited to, the maintenance and upkeep of the private roadway(s) located within the development in an all-weather passable condition, and any stormwater control, wetlands or disposal improvements and also includes the maintenance, repair, replacement and additions to the roadways, entrance ways with gates and signs, recreation areas, drainageways, and the cost of labor, equipment, materials, repairs, management and supervision thereof.

Section 2. Creation of the Lien and Personal Obligation of Assessments. All expenses of the Association shall be, and for the purposes of assessments, the common expense liability shall be assessed against the Lots are to be allocated equally among all lots. The Declarant, for each Lot owned within the Community, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) Base Assessments or charges, (2) Special Assessments for capital improvements and (3) Specific Assessments, such assessments to be established and collected as hereinafter provided. The Base, Special and Specific Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 3. Maximum Base Assessment. The initial minimum annual assessment shall be **\$35.00** per month to be adjusted as follows:

- A. From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum Base Assessment may be increased each year not

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more than twenty (20%) percent above the maximum assessment for the previous year without a vote of the membership.

- B. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Base Assessment may be increased above twenty (20%) percent by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- C. The Board of Directors may fix the Base Assessment at an amount not in excess of the maximum.
- D. So long as there exists Declarant Control, the Declarant shall pay no dues or assessments but in lieu thereof the Declarant covenants and agrees to defray such deficit as may be required for maintenance up to the amount of the current operating budget.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for any purpose. Any such assessment shall have the assent of two-thirds (2/3) of the votes of the Lot Owners who are voting in person or by proxy at a meeting duly called for this purpose. Special Assessments for insurance premiums, any uninsured loss or insurance deductibles shall not be limited by member approval.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty (50%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and to the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. This process shall continue and the number required for a quorum shall continue to be one-half (1/2) of the prior meeting until a quorum is achieved. For the purposes of this section, no subsequent meeting shall be held more than 60 days following the preceding meeting nor less than five (5) days following the preceding meeting.

Section 6. Date of Commencement of Base Assessments: Due Date. The Base Assessments provided for herein shall commence as to Lots sold to licensed general contractors on the date that the Lot has been improved with a residence and conveyed to a person or entity who will, individually or through tenants or assigns, occupy that residence. For all other Lots, the assessments shall become due when each Lot is conveyed to an Owner not either owned by the Declarant or owned by an entity which is at least half owned by the Declarant. In such event Declarant's obligation to defray such deficit as may be required for maintenance up to the amount of the current operating budget as set forth in Section 3 above shall continue. The first Base Assessment shall be adjusted according to the number of days remaining in the calendar year. The Board of Directors shall fix the amount of the Base Assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the Base

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Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 7. Effect of Nonpayment of Assessments: Remedies. Any assessment not paid when due are delinquent and within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve (12%) percent per annum or such other rate as the Association may determine. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. Should the Association (or Declarant) find it necessary to employ counsel to enforce any of the foregoing covenants, conditions, reservations or restrictions, all costs incurred in such enforcement, including court costs and a reasonable fee for counsel, shall be paid by the owner of such Lot or Lots against which such enforcement action is taken, and the Association (or Declarant) shall have a lien upon such Lot or Lots to secure payment of such costs.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 9. Budget Deficits During Declarant Control. During the Declarant Control Period, Declarant may (but shall not be required to):

A. 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 and Special 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. 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 Area or any of the improvements maintained by the Association shall be given in connection with such loan.

C. Declarant may acquire property for, or provide services to, the Association or the Common Area. 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.

Section 10. 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.

Section 11. 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.

Section 12. Exempt Property. The following property shall be exempt from payment of Base Assessments and Special Assessments:

- A. All Common Area;
- B. Any property dedicated to and accepted by any governmental authority or public utility; and
- C. Any and all property owned by the Declarant.

Section 13. Capitalization of Association. Upon the sale of each and every Lot in the Community after it has been improved with a residence for which a certificate of occupancy has been issued, **an initiation fee in the amount of one hundred twenty-five dollars (\$125.00) per Lot** 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 initiation fee shall be a Specific Assessments against the Lot and shall be in addition to, not in lieu of, the annual Base Assessment. The initiation fee shall not be considered an advance payment of the annual Base Assessment. This initiation fee shall be deposited into a specially designated reserve account of the Association and shall be for the purposes of ensuring that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board of Directors. This initiation fee may be increased or decreased in the sole and exclusive discretion of the Board; provided, however, that in no event shall this initiation fee equal more than the annual Base Assessment for the year in which the closing on the sale of the Lot improved with a residence for which a certificate of occupancy has been issued occurred.

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ARTICLE X: EXPANSION OF THE COMMUNITY

Section 1. Expansion by Declarant. Until all property described in **Exhibit A** 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 A** 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 A**, and provided that the transfer or assignment is evidenced by a Recorded Document. The Declarant may also identify and add to the Development Area by amendment hereto any other such property as Declarant in its sole discretion may determine.

Declarant, acting in its sole and absolute discretion, shall have the right, but not the obligation to establish separately within the additional areas subjected to this Declaration, recreational areas and amenity areas, or some, all or none of these, and to designate Common Area for the exclusive use of a portion of any additional areas subjected to this Declaration. Every Lot situated within any additional property subjected to this Declaration may be subjected to different or additional covenants, conditions, restrictions and additional assessments for services provided to said Lots. Such additional covenants may be set forth in this Declaration or a Supplemental Declaration.

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.

Section 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 (67%) percent 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.

ARTICLE XI: DECLARANT RIGHTS

Section 1. Reasonable Rights To Develop. Declarant, builders approved by Declarant and/or their contractors or subcontractors 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:

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- 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 Tuscan Villas 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.

Section 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 Area, 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 Area upon termination of its rights under this Section.

Section 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 Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Section 4. Right to Approve Additional Covenants. During the Declarant Control Period, no person or entity shall record any declaration of covenants, conditions and restrictions, or declaration of condominium 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.

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Section 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.

Section 6. Easement to Inspect and Right to Correct.

A. Easement. Declarant reserves for itself 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.

B. 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.

Section 7. 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.

Section 8. 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.

Section 9. 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.

Section 10. Supplemental Declarations. Declarant shall have the right at any time, to record Supplemental Declarations for portions of the Property and/or Development Area.

ARTICLE XII: EASEMENTS AND STORMWATER COVENANTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right of use and enjoyment in and to the Common Area 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 Area to the members of his family, his tenants, contract purchasers who reside on the Property, or his guests. Such right of

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use and enjoyment shall be subject to the provisions of this Declaration, the Planned Community Act and the following provisions:

- A. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility upon the Common Area;
- B. The right of the Association to limit the number of guests of members;
- C. The right of the Association to suspend the right to use the Common Area or recreational facilities by the Owner, Occupant or other persons for any period during which an assessment against a Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- D. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association;
- E. The right of the Association to impose restrictions for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area;
- F. The Right of the Association to impose fines or other penalties pursuant to the Planned Community Act.

Section 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 Area 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 Area.

Section 3. Encroachments and Declarant's Easement to Correct Drainage. All Lots and the Common Area shall be subject to easements for the encroachment of initial improvements constructed on any Lots or Common Area to the extent that such initial improvements actually encroach, including, without limitation, such items as overhanging eaves, gutters, downspouts, exterior storage rooms, party walls, 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.

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Section 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 Area. 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.

Section 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 Area; (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 Area; 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.

Section 6. 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 Area 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.

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Section 7. Stormwater Management Covenants. The covenants stated below are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW8 080912, as issued by the Division of Water Quality under the Stormwater Management Regulations (Title 15 NCAC 2H.1000 and S.L. 2006-246). The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit. These covenants are to run with the land and be binding on all persons and parties claiming under them, and the covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality. The covenants are as follows:

a. Alteration of the drainage as shown on the approved and permitted plan may not take place without the concurrence of the Division of Water Quality.

b. The maximum allowable built-upon area (BUA) per Lot is 1,122 square feet. This allotted amount includes any BUA 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 and coquina, but does not include raised, open wood decking, or the water surface of swimming pools.

c. In the case of a Lot within CAMA's regulated Area of Environmental Concern (AEC), where the Division of Coastal Management calculates a different maximum allowable BUA for that Lot than is shown herein, the governing maximum BUA for that lot shall be the most restrictive of the two.

d. All runoff on the Lot must drain into the permitted system. This may be accomplished through providing roof drain gutters, which drain to the street, grading the Lot to drain toward the street, or grading perimeter swales and directing them into the pond or street. Lots that will naturally drain into the system are not required to provide these measures.

e. Built-upon area in excess of the permitted amount will require a permit modification.

f. If permeable pavement credit is requested, the property owner must submit a request, with supporting documentation, to the permittee and receive approval prior to construction of BUA.

g. The built-upon areas associated with this project shall be located at least 30 feet leeward of all perennial and intermittent surface waters.

h. Declarant, the Association and the State of North Carolina and their respective successors and/or assigns, reserve the right to enter upon any Lot to inspect for compliance of such Lot with the stormwater permit and to maintain, repair, replace and construct ditches and devices necessary to insure that such Lot is in compliance with such regulations.

Section 8. Acceptance of Responsibility for Stormwater and Other Permits. During the Declarant Control Period, the Declarant, its successors and/or assigns, shall have the absolute right and authority to transfer to the Association any and all permits for stormwater, detention ponds, scour holes or other purposes which may be issued or required by any governmental entity for the development and maintenance of the Property or for the dedication of its streets, rights of ways or easements for public use. Further, the Declarant, its successors and/or assigns shall have the absolute right and authority to accept the transfer of such permits, dedications and other obligations on behalf of the Association and if further required by any such entity, the Association shall perform any and all acts necessary to accomplish the transfer of any such permits or approvals.

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ARTICLE XIII: MULTI-FAMILY DWELLING SPECIAL PROVISIONS

Section 1. Conveyance of Multi-Family Unit. Regardless of any provisions in this Declaration to the contrary, nothing shall prohibit or prevent the conveyance of a part or portion of any Lot in order to convey one separate residential unit within a Townhome Building.

Section 2. Party Walls. Regarding party walls between separate residences within Townhome Buildings:

A. General Rules of Law Apply. Each wall which is built as part of the original construction of the Townhome Buildings upon the Property and placed between separate residential units of the Townhome Building shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Paragraph, the general rules of law requiring party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

B. Sharing of Maintenance and Repair. The costs of reasonable repair and maintenance of a party wall shall be the responsibility of the Owners of said wall.

C. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, the Owners of the party wall shall promptly restore it. In the event the owners fail or refuse to promptly restore the party wall, the Association shall have the right, but not the obligation, to repair the damage to the party wall and assess the Owners for the full cost thereof as a special assessment. The Association, their agents, contractors and/or employees are granted an easement for access to the Lot and any buildings thereon for the purpose of making the repairs described herein.

D. Negligent or Willful Acts. Notwithstanding any other provisions of this Article, an Owner who by negligence or willful act, or by the negligence or willful acts of a permitted Occupant or invitee thereof, causes the party wall to be damaged shall bear the whole cost of furnishing necessary repairs thereto.

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

F. Dispute Resolution.

1. In the event of any dispute between Owners arising or concerning any issue of maintenance or repair, a party wall or any other provisions of this Declaration, any Owner shall notify the Board of Directors. The Board of Directors shall thereafter resolve any dispute and the decision shall be binding on the Owners of the units in the Townhome Building. Alternately, or in the event the Board of Directors cannot resolve the dispute or becomes deadlocked, then the Board of Directors will choose an arbitrator whose decision shall be binding on the Owners of the units in the Townhome Building.

2. Arbitration. Any controversy that shall be submitted to arbitration shall be determined and settled by an independent disinterested person (hereinafter "Independent Arbitrator") appointed by the Board of Directors, and such Independent Arbitrator shall resolve the controversy in accordance with the terms of the Uniform Arbitration Act, currently codified in North Carolina General Statute Chapter 45A, Sections 1-567.1 et. seq or any successor statutes. The controversy as so determined

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shall be binding on the parties. The cost of the arbitration shall be borne equally by the parties, except that each party will pay the costs of its legal counsel and costs of expert witnesses. The place of arbitration shall be Onslow County, North Carolina.

ARTICLE XIV: WETLANDS AND CONSERVATION SPECIAL PROVISIONS

Section 1. Placement of dredged or fill material, or development within the waters of the United States and/or wetlands without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act. This activity also requires notification to the Division of Water Quality, Stormwater and Wetlands Sections.

Section 2. It shall be the responsibility of each owner, prior to alteration of any lot, to determine if any Lot shall have been determined to meet the requirements for designation as a regulatory wetland. Any subsequent fill or alteration of this wetland shall conform to the requirements of state wetland rules adopted by the State of North Carolina in force at the time of the proposed alteration. The intent of this deed restriction is to prevent additional wetland fill, so the Owner should not assume that a future application for fill will be approved. The Owner shall report the name of the subdivision in any application pertaining to wetland rules. This covenant is intended to insure the continued compliance with wetland rules adopted by the State of North Carolina therefore benefits may be enforced by the state of North Carolina. Declarant, the Association and the State of North Carolina and their respective successors and/or assigns, reserve and retain the right to go upon any Lot to inspect for compliance of such Lot with the wetlands regulations and to maintain, repair, replace and construct ditches and devices necessary to insure that such Lot is in compliance with such regulations. This covenant is to run with the land and shall be binding on all parties and all persons claiming under them.

ARTICLE XV: CHANGES IN COMMON AREA

Section 1. Condemnation. If a Lot or portion thereof shall be taken by eminent domain, compensation and the Owner's interests in the Common Area shall be appropriately allocated among all other Owners. If any part of the Common Area 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 (67%) percent 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 Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining Common Area to the extent available, unless within sixty (60) days after such taking Declarant, during the Declarant Control Period, and Members representing at least eighty (80%) percent 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.

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B. If the taking or conveyance does not involve any improvements on the Common Area, 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.

Section 2. Transfer, Partition, or Encumbrance of Common Area.

A. Except as this Declaration otherwise specifically provides, the Common Area shall not be judicially partitioned or subdivided into Lots, nor shall the ownership of the Common Area be otherwise divided or encumbered in any manner after conveyance to the Association, except upon the approval of Members representing at least Eighty (80%) percent 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 as required by the Planned Community Act and the consent of Declarant, if during the Declarant Control Period, to transfer portions of the Common Area 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 Area 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: MISCELLANEOUS

Section 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.

Section 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.

Section 3. Amendment. Except as provided in Article XI Section 8 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.

Section 4. Enforcement. 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. 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).

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Section 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.

Section 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.

Section 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.

Section 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.

Section 9. Severability. Invalidity 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.

Section 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.

Section 11. Law Controlling. This Declaration shall be construed and governed pursuant to the laws of North Carolina.

Section 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.

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IN WITNESS WHEREOF, Tuscany Villas Builders, Inc., as the Declarant hereunder, has caused this instrument to be executed by its duly authorized President, all by order and authority duly granted by its corporate board of directors, as of the day and year first above written.

Tuscany Villas Builders, Inc.,
a North Carolina Corporation, Declarant

By: John C. Smith, Jr.
John C. Smith, Jr., President

STATE OF NORTH CAROLINA
COUNTY OF ONSLOW

I, Aimee M. Batson, a Notary Public of the County and State aforesaid, certify that John C. Smith, Jr, personally appeared before me this day and acknowledged that he is President of Tuscany Villas Builders, Inc., a North Carolina corporation, and that he, being duly authorized to do so, executed the foregoing for and on behalf of said corporation.

Witness my hand and official stamp or seal, this 10 day of September, 2012.

NOTARY SEAL

Aimee M. Batson
Signature of Notary Public

My Commission Expires: 5/29/17

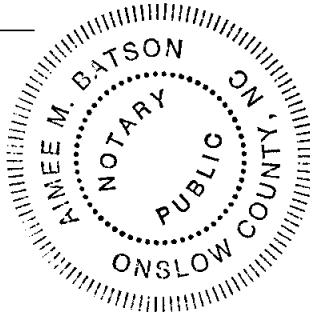


EXHIBIT A
DEVELOPMENT AREA

BEING all of Tract #2 containing 2.47 acres and Tract #3 containing 2.68 acres as shown on that map entitled "FINAL PLAT OF LONGBORNE" prepared by East Coast Community Development, Inc., Jacksonville Township, Onslow County, NC and recorded in Map Book 52, page 210, Slide L-1785 in the Onslow County Registry.

GLENN O'KEITH FISHER, Attorney at Law
2505 Henderson Drive, Jacksonville, North Carolina 28546

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EXHIBIT B
LAND INITIALLY SUBMITTED

Being all of Lots 1-A through 1-D, 2-A through 2-D, 3-A through 3-D, 4-A through 4-D, 5-A through 5-D, 6-A through 6-D, 7-A through 7-D and 8-A through 8-D, inclusive, as shown on a plat of entitled "FINAL PLAT SHOWING TUSCANY VILLAS," dated September 11, 2011, prepared by John L. Pierce & Associates, P.A., and recorded in Map Book 63, Page 31, Slide)-64, Onslow County Registry, together with the roadways, easements, open areas and common area shown thereon.

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