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- Ward Village Homeowners' Association, Inc.

**FIRST AMENDMENT TO THE DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS OF
WARD FARM COMMERCIAL SUBDIVISION AND WARD
VILLAGE RESIDENTIAL SUBDIVISION**

MARCH 25, 2013

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THIS FIRST AMENDMENT TO THE DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR WARD FARM COMMERCIAL SUBDIVISION AND WARD VILLAGE RESIDENTIAL SUBDIVISION (as may be amended or supplemented as set forth herein and hereinafter referred to as the "Declaration") is made this 25th day of MARCH 2013 by and between **WARD FARM, LLC**, a North Carolina limited liability company, (hereinafter the "Commercial Declarant"); **WARD SHORE BUILDERS, INC.**, a North Carolina corporation, (hereinafter the "Residential Declarant") **COSTA CRISTAL, LLC**, a North Carolina limited liability company; and **SWANSBORO METHODIST CHURCH, INC.**, a North Carolina non-profit corporation. WARD FARM, LLC and WARD SHORE BUILDERS, INC. are sometimes herein collectively referred to as the "Declarants."

W I T N E S S E T H:

WHEREAS, Ward Farm, LLC has executed and caused to be recorded the Declaration of Easements, Covenants, and Restrictions as set forth in Book 3527, Pages 206 through 233, Onslow County Registry (the "Prior Declaration"); and

WHEREAS, Article XIII of the Prior Declaration sets forth that the Prior Declaration may be amended at any time by Ward Farm, LLC, if Ward Farm, LLC owns sixty percent (60%) or more of the aggregate voting interest, may alter or amend the Declaration without the consent of any other Owner; and

WHEREAS, Ward Farm, LLC owns greater than sixty percent (60%) of the aggregate voting interest; and

WHEREAS, Ward Farm, LLC wishes to amend the Prior Declaration to alter the terms of the Prior Declaration and to make the addition of certain other real property as shall hereinafter be defined.

NOW THEREFORE, for the mutual benefit of all Owners and purchasers of Lots within the Subdivisions, Ward Farm, LLC hereby declares that the Declaration of Covenants, Restrictions and Easements of record in Book 3527, Pages 206 through 233 be amended and replaced in its entirety as follows:

ARTICLE I
DEFINITIONS

The following words shall when used in this Declaration or any Supplemental Declaration (unless context shall prohibit) shall have the following meanings:

(A) "Annual Meeting" means the annual meeting of the Commercial or Residential Members, as the case may be, held in Onslow County, North Carolina, within the last quarter of each calendar year, upon proper notice, at a date, time and at a

place from time to time designated by the Commercial or Residential Board. The first Annual Meeting of the Commercial or Residential Members shall be held within one (1) year from the date of incorporation on such date as the initial Commercial or Residential Board shall determine.

(B) "Church Property" shall mean and refer to the real property adjacent to the Commercial and Residential Subdivisions which is now or formerly owned by the Swansboro Methodist Church, Inc.

(C) "Commercial Articles" or "Commercial Articles of Incorporation" shall mean those articles, filed with the Secretary of State of North Carolina, incorporating Ward Farm Owners' Association, Inc., as a non-profit corporation under the provisions of North Carolina State law, as the same may be amended from time to time.

(D) "Commercial Assessments" means Commercial Regular Assessments, Commercial Special Assessments, Commercial Individual Assessments and Commercial Fine Assessments.

(E) "Commercial Association" shall mean and refer to the Ward Farm Owners' Association, Inc., a North Carolina non-profit Corporation, its successors and assigns.

(F) "Commercial Board" shall mean and refer to the Board of Directors of the Commercial Association.

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

(H) "Commercial Class A Members" shall mean as defined in Section 4.05(A) below.

(I) "Commercial Class B Members" shall mean as defined in Section 4.05(B) below.

(J) "Commercial Common Areas" shall mean all the real estate (including retention ponds, storm drainage improvements, entrance signage, streets (including any dedicated streets prior to their acceptance for public maintenance) and all landscaping and other improvements thereon) owned by the Commercial Association for the common use and enjoyment of the Commercial Owners. Commercial Common Areas shall include, but not be limited to, "COS," "Open Space," "Common Area" or reserved as an access drive or private street.

(K) "Commercial Common Expenses" shall mean, refer to, and include all charges, costs and expenses incurred by the Commercial Association for and in connection with the administration of the Commercial Subdivision, including, without

limitation thereof, operation of the Commercial Subdivision, maintenance, repair, replacement and restoration (to the extent not covered by insurance) of the Commercial Common Areas; the costs of any additions and alterations thereto; all labor, services, common utilities, materials, supplies, and equipment therefor; all liability for loss or damage arising out of or in connection with the Commercial Common Areas and their use; all premiums for hazard, liability and other insurance with respect to the Commercial Subdivision; all costs incurred in acquiring a Lot pursuant to judicial sale; and all administrative, accounting, legal, and managerial expenses. "Commercial Common Expenses" shall also include amounts incurred in replacing, or substantially repairing, capital improvements within the Commercial Common Areas of the Commercial Subdivision, including, but not limited to private road repair and resurfacing. "Commercial Common Expenses" shall also include all reserve funds or other funds established by the Commercial Association. "Commercial Common Expenses" shall be construed broadly.

(L) "Commercial Constituent Documents" shall mean the Declaration, the Commercial Bylaws, the Commercial Articles of Incorporation, and the Commercial Rules and Regulations, if any, and any other basic documents used to create and govern the Commercial Subdivision.

(M) "Commercial Declarant" shall mean and refer to WARD FARM, LLC, a North Carolina limited liability company, its successors and assigns as the Commercial Declarant.

(N) "Commercial Development Period" means the period commencing on the date on which this Declaration is recorded in the Onslow County Register of Deeds and terminating on the earlier to occur of: (i) when Declarant no longer owns a Lot in the Commercial Subdivision; (ii) the date that Declarant relinquishes in writing Declarant's right to appoint Directors to the Commercial Board; or (iii) the occurrence of the date twenty (20) years from the date of recording the Declaration, renewable for an additional twenty (20) year period with the consent of a majority of Commercial Lot Owners other than the Declarant.

(O) "Commercial Fine Assessment" means the charge established by Section 5.04 of this Declaration.

(P) "Commercial Individual Assessment" means the charge established by Section 5.03 of this Declaration.

(Q) "Commercial Lot" shall mean and refer to any plot of land, with delineated boundary lines, appearing on the

Commercial Plat with the exception of the Commercial Common Areas.

(R) "Commercial Member" shall mean and refer to all those Commercial Owners who are Members of the Commercial Association as provided in Article IV below.

(S) "Commercial Owner" or "Commercial Lot Owner" shall mean and refer to the record owner, including Declarant, whether one or more persons or entities, of a fee simple title to any Lot located within the Commercial Subdivision.

(T) "Commercial Plat" shall mean and refer to the record plat of the Commercial Subdivision recorded by Declarant, as the same may be amended or supplemented by Declarant from time to time.

(U) "Commercial Property" or "Commercial Subdivision" shall mean and refer to that certain real estate described in Exhibit A and all other real estate that may be annexed into this Declaration and the Commercial Association by the Declarant.

(V) "Commercial Regular Assessment" means the charge established by Article V of this Declaration.

(W) "Commercial Rules and Regulations" shall mean and include the rules and regulations made from time to time by the Commercial Board of Directors as provided in Section 4.04 below.

(X) "Commercial Special Assessment" means the charge established by Section 5.02 of this Declaration.

(Y) "Commercial Stormwater Management Permit" shall mean and refer to State Stormwater Management Permit Number SW8 091001, as amended, as issued by the Division of Water Quality, under NCAC 2H.1000 and any subsequently issued permits or modifications thereof.

(Z) "Default" shall mean any violation or breach of, or any failure to comply with, the Restrictions, this Declaration or any other Constituent Documents, whether Commercial or Residential.

(AA) "Dwelling Unit" shall mean and refer to the individual family living unit on an individual Residential Lot.

(BB) "Environmental Laws" shall mean and refer to all existing or hereafter enacted or issued statutes, laws, rules, ordinances, orders, permits, and regulations of all state, federal, local, and other governmental and regulatory authorities, agencies, and bodies applicable to the Property, pertaining to environmental matters, or regulating, prohibiting

or otherwise having to do with asbestos and all other toxic, radioactive, or hazardous wastes or materials including, but not limited to, the Federal Clean Air Act, the Federal Water Pollution Control Act, and the Comprehensive Environmental Response, Compensations, and Liability Act of 1980, as from time to time amended.

(CC) "Hotel Property" shall mean and refer to Tract Two as depicted in Map Book 59, Page 80 of the Onslow County Registry.

(DD) "Improvements" shall collectively mean and refer to all buildings, structures and other improvements of any and every nature located on any Commercial Lot and all fixtures attached or affixed, actually or constructively, to the Lot or to any such buildings, structures or other improvements.

(EE) "Lot" or "Lots" shall collectively mean and refer to any Commercial Lot or Residential Lot.

(FF) "Mortgage" shall mean and refer to a mortgage, deed of trust, deed to secure debt or other security instrument affecting any Lot and which has been duly recorded in the Office of the Register of Deeds for Onslow County.

(GG) "Mortgagee" shall mean and refer to the mortgagee, beneficiary, trustee or other holder of a Mortgage.

(HH) "Owner" or "Owners" shall collectively mean and refer to the record owner, including Declarants, whether one or more persons or entities, of any Commercial Lot or Residential Lot.

(II) "Planned Community Act" shall mean and refer to the North Carolina Planned Community Act, currently codified as Chapter 47F of the North Carolina General Statutes, as the same may be amended from time to time.

(JJ) "Properties" or "Subdivisions" shall collectively mean and refer to all of that certain real estate described in Exhibit A and Exhibit B attached hereto.

(KK) "Residential Articles" or "Residential Articles of Incorporation" shall mean those articles, filed with the Secretary of State of North Carolina, incorporating Ward Village Homeowners' Association, Inc., as a nonprofit corporation under the provisions of North Carolina State law, as the same may be amended from time to time.

(LL) "Residential Assessments" means Residential Regular Assessments, Residential Special Assessments, Residential Individual Assessments and Residential Fine Assessments.

(MM) "Residential Association" shall mean and refer to the Ward Village Homeowners' Association, Inc., a North Carolina non-profit Corporation, its successors and assigns.

(NN) "Residential Board" shall mean and refer to the Board of Directors of the Residential Association.

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

(PP) "Residential Class A Members" shall mean as defined in Section 13.05(A) below.

(QQ) "Residential Class B Members" shall mean as defined in Section 13.05(B) below.

(RR) "Residential Constituent Documents" shall mean the Declaration, the Residential Bylaws, the Residential Articles of Incorporation, and the Residential Rules and Regulations, if any, and any other basic documents used to create and govern the Residential Subdivision.

(SS) "Residential Common Areas" shall mean all the real estate (including retention ponds, storm drainage improvements, entrance signage, streets (including any dedicated streets prior to their acceptance for public maintenance) and all landscaping and other improvements thereon) owned by the Residential Association for the common use and enjoyment of the Residential Owners. Residential Common Areas shall include, but not be limited to, "COS," "Open Space," "Common Area" or reserved as an access drive or private street.

(TT) "Residential Common Expenses" shall mean, refer to, and include all charges, costs and expenses incurred by the Residential Association for and in connection with the administration of the Residential Subdivision, including, without limitation thereof, operation of the Residential Subdivision, maintenance, repair, replacement and restoration (to the extent not covered by insurance) of the Residential Common Areas; the costs of any additions and alterations thereto; all labor, services, common utilities, materials, supplies, and equipment therefor; all liability for loss or damage arising out of or in connection with the Residential Common Areas and their use; all premiums for hazard, liability and other insurance with respect to the Residential Subdivision; all costs incurred in acquiring a Lot pursuant to judicial sale; and all administrative, accounting, legal, and managerial expenses. "Residential Common Expenses" shall also include amounts incurred in replacing, or substantially repairing, capital improvements within the Residential Common Areas of the

Residential Subdivision, including, but not limited to private road repair and resurfacing. "Residential Common Expenses" shall also include all reserve funds or other funds established by the Association. "Residential Common Expenses" shall be construed broadly.

(UU) "Residential Declarant" shall mean and refer to WARD SHORE BUILDERS, INC., a North Carolina corporation, its successors and assigns as the Residential Declarant.

(VV) "Residential Development Period" means the period commencing on the date on which this Declaration is recorded in the Onslow County Register of Deeds and terminating on the earlier to occur of: (i) when Residential Declarant no longer owns a Lot in the Residential Subdivision; (ii) the date that Residential Declarant relinquishes in writing Residential Declarant's right to appoint Directors to the Residential Board; or (iii) the occurrence of the date twenty (20) years from the date of recording this Declaration, renewable for an additional twenty (20) year period with the consent of a majority of Residential Lot Owners other than the Residential Declarant.

(WW) "Residential Fine Assessment" means the charge established by Section 14.04 of this Declaration.

(XX) "Residential Individual Assessment" means the charge established by Section 14.03 of this Declaration.

(YY) "Residential Lot" shall mean and refer to any plot of land, with delineated boundary lines, appearing on the Residential Plat with the exception of the Residential Common Areas.

(ZZ) "Residential Member" shall mean and refer to all those Residential Owners who are Members of the Residential Association as provided in Article XI below.

(AAA) "Residential Owner" "Residential Lot Owner" shall mean and refer to the record owner, including Residential Declarant, whether one or more persons or entities, of a fee simple title to any Residential Lot located within the Residential Subdivision.

(BBB) "Residential Plat" shall mean and refer to the record plat of the Residential Subdivision recorded by Declarants, as the same may be amended or supplemented by Declarants from time to time.

(CCC) "Residential Property" or "Residential Subdivision" shall mean and refer to that certain real estate described in Exhibit "B" and all other real estate that may be

annexed into this Declaration and the Residential Association by the Declarants.

(DDD) "Residential Regular Assessment" means the charge established by Article XIV of this Declaration.

(EEE) "Residential Rules and Regulations" shall mean and include the rules and regulations made from time to time by the Residential Board of Directors as provided in Section 13.03 below.

(FFF) "Residential Special Assessment" means the charge established by Section 12.02 of this Declaration.

(GGG) "Residential Stormwater Management Permit" shall mean and refer to State Stormwater Management Permit Number SW8 120811, as amended, as issued by the Division of Water Quality, under NCAC 2H.1000 and any subsequently issued permits or modifications thereof.

(HHH) "Restrictions" shall mean all covenants, conditions, restrictions, easements, charges, liens and other obligations provided for in this Declaration, including, without limitation, all notices, rules and regulations issued in accordance with this Declaration.

(III) "Stormwater Retention Pond" shall mean and refer to the retention pond installed and maintained upon the Commercial Common Area of the Commercial Subdivision which shall be utilized by the Commercial Subdivision, the Residential Subdivision, the Hotel Property and the Church Property.

(JJJ) "Tenant" means any person occupying any Lot pursuant to a written or oral lease agreement with the Owner thereof or with any other person or entity claiming under the Owner.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 2.01. Property. The Property, each portion thereof, and all improvements thereon shall be held, transferred, sold, conveyed, leased, mortgage and occupied subject to the terms, provisions, covenants and conditions of this Declaration.

Section 2.02. Additions to Property. Any additional property may be subjected to this Declaration upon the filing of record of supplements of this Declaration (the "Supplemental Declarations") describing the same, and thereupon the operation and effect of this Declaration shall be extended to such additional property and such additional property shall thereafter become part of the Property. The Supplemental Declarations may contain such complementary additions and

modifications of this Declaration pertaining to such additional property as may be necessary or convenient, in the sole judgment of the Declaration, to reflect or accommodate the different character, if any, of the added property. Notwithstanding any term or provision herein to the contrary, Supplemental Declarations limited in scope and purpose may be executed and filed of record by Declarants or assigns without any requirement that other Owners approve or execute such Supplemental Declarations. Declarants' rights herein are perpetual.

Section 2.03. Recombination/Subdivision. Declarants reserve the right to recombine Lots or subdivide Lots as Declarants in their sole discretion deem necessary.

ARTICLE III
PROPERTY RIGHTS IN COMMERCIAL COMMON AREAS

Section 3.01. Owner's Easements of Enjoyment. Except as herein otherwise provided, each Commercial Owner shall have a right and easement of enjoyment in and to the Commercial Common Areas, which shall be appurtenant to and shall pass with the title to his Commercial Lot. Each Tenant shall have a non-transferable right to use and enjoy the Commercial Common Areas, if any, which right shall terminate when such person ceases to have the status of a Tenant. Such rights and privileges shall be subject, however, to the following:

(A) The right of the Commercial Board to adopt and enforce and from time to time amend reasonable limitations upon use and Commercial Rules and Regulations pertaining to the use of the Commercial Common Areas, including regulations limiting guests of Commercial Owners and Tenants who may use the Commercial Common Areas at any one time;

(B) All applicable provisions of valid easements and/or agreements of the Commercial Association relating to the Commercial Common Areas;

(C) The right of the Commercial Association to grant permits, licenses and public or private easements over Commercial Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Commercial Property; or

(D) The right of Commercial Declarant or the Commercial Association to dedicate or convey portions of the Commercial Common Areas to applicable governmental authorities for public purposes.

Section 3.02. Extension of Use. Any Commercial Owner may extend his right of enjoyment to the Commercial Common Areas to

his lessees, invitees and licensees and the invitees and customers of such lessees, invitees and licensees.

Section 3.03. Title to Commercial Common Areas. The Commercial Declarant shall convey by deed all Commercial Common Areas to the Commercial Association in fee simple absolute after the final platting of all Commercial Lots in the Commercial Subdivision. Any such conveyance shall be subject to taxes for the year of conveyance, and to restrictions, conditions, limitations and easements of record.

Section 3.04. Use of Commercial Common Areas by Declarant. In addition to the specific rights and easements reserved herein, Commercial Declarant and its affiliates and associates shall have the same rights of use and enjoyment of the Commercial Common Areas as the Commercial Class A Members during the Commercial Development Period, and shall have the same right to use Commercial Common Areas for promotional, sales and similar purposes until all of the Commercial Lots have been sold.

ARTICLE IV COMMERCIAL ASSOCIATION

Section 4.01. Membership of Commercial Association.

(A) Regular Membership. Every Owner of a Commercial Lot shall be a Member of the Commercial Association. Such Owner and Member shall abide by the Commercial Association's Rules and Regulations, shall pay the Commercial Assessments provided for in this Declaration, when due, and shall comply with decisions of the Commercial Association's governing body. Conveyance of fee simple title to a Commercial Lot automatically transfers membership in the Commercial Association without necessity of further documents. Membership shall be appurtenant to and may not be separated from ownership of any Commercial Lot that is subject to Commercial Assessment.

(B) Limited Membership. Swansboro Methodist Church, Inc., by and through its ownership of the Church Property and the Residential Association shall become Commercial Members of the Commercial Association for the exclusive limited purposes of Stormwater Retention Pond maintenance, upkeep and repair and all matters related thereto. Their membership liability and obligations shall be limited to Stormwater Retention Pond matters only as further described in this Declaration.

Section 4.02. Commercial Association. The administration of the Commercial Subdivision shall be vested in the Commercial Association. The Owner of any Commercial Lot, upon acquiring title, shall automatically become a Member of the Commercial

Association and shall remain a Member until such time as his ownership of such Commercial Lot ceases for any reason, at which time his membership in the Commercial Association shall automatically cease. The Commercial Association shall have full power and responsibility to administer, operate, sustain, maintain, and govern the Commercial Subdivision including but not limited to, the powers and responsibilities to make prudent investments of funds held by it; to make reasonable Commercial Rules and Regulations; to borrow money; to make Commercial Assessments; to bring lawsuits and defend lawsuits; to enter into contracts; to enforce all of the provisions of this Declaration, the Commercial Bylaws and any other documents or instruments relating to the establishment, existence, operation, alternation of the Commercial Subdivision. The powers of the Commercial Association shall be construed liberally and shall include, without limitation, all of the powers set forth in Section 47F-3-102 of the Planned Community Act.

Section 4.03. Board of Directors and Officers. The Commercial Association shall be governed by a Board of Directors in accordance with the Commercial Bylaws. Notwithstanding the provisions contained in this Declaration, the Commercial Declarant shall have the right to appoint or remove any member or members of the Commercial Board of Directors or any officer or officers of the Commercial Association until the end of the Commercial Development Period.

Section 4.04. Commercial Rules and Regulations. By a majority vote of the Commercial Board of Directors, the Commercial Association may, from time to time adopt, amend and repeal Commercial Rules and Regulations with respect to all aspects of the Commercial Association's rights, activities and duties under this Declaration. The Commercial Rules and Regulations may, without limitation, govern use of the Commercial Subdivision, including prohibiting, restricting or imposing charges for the use of any portion of the Commercial Subdivision by Commercial Owners or others, interpret this Declaration or establish procedures for operation of the Commercial Association or the administration of this Declaration; provided, however, that the Commercial Rules and Regulations shall not be inconsistent with this Declaration, the Commercial Articles, or Commercial Bylaws. A copy of the Commercial Rules and Regulations, as they may from time to time be adopted, amended or repealed, shall be maintained in the office of the Commercial Association and shall be available to each Commercial Owner upon request.

Section 4.05. Classes of Membership. The Commercial Association shall have two (2) classes of Membership:

(A) Commercial Class A Members. Every person, group of persons, or entity which is a record Owner of a fee interest in any Commercial Lot the Commercial Property, shall automatically be a Class A Member of the Commercial Association except the Declarant during the Commercial Development Period; provided, however, that any Mortgagee shall not be a Member. A Commercial Class A Membership shall be appurtenant to and may not be separated from ownership of any Commercial Lot that is subject to Commercial Assessment.

(B) Commercial Class B Members. The Commercial Class B Member during the Commercial Development Period shall be the Commercial Declarant. The Commercial Class B Membership shall cease and be converted to Commercial Class A membership upon the expiration of the Commercial Development Period.

(C) Voting.

(1) Stormwater Retention Pond Matters. For all matters regarding the Stormwater Retention Pond which require a vote of the Commercial Membership, votes shall be delegated among the Commercial Members according to the percentages as follows:

<u>LOT</u>	<u>VOTES</u>
1	1
2	1
3	1
4	1
5	1
6	2
7	2
8	2
9	2
Residential Property	2
Church Property	2

(2) Other Matters. For all other Commercial Association matters that require a vote of the Commercial Membership, Commercial Class A Members shall be entitled to one (1) vote per each full acre plus one (1) vote for any

fraction of an acre thereof for each Commercial Lot owned.
The initial votes per Lot are as follows:

<u>LOT</u>	<u>VOTES</u>
1	1
2	1
3	1
4	1
5	1
6	2
7	2
8	2
9	2

(3) Multiple Owners of One Lot. In the event that more than one person, group of persons or entity is the record Owner of a fee interest in any Commercial Lot, then the vote for the membership appurtenant to such Commercial Lot shall be exercised as they among themselves determine, but in no event shall the vote(s) cast be more than the total attributable votes allowed with respect to any Commercial Lot. In the event agreement is not reached, the vote attributable to such Commercial Lot shall not be cast.

(4) Voting During Commercial Development Period. Any Commercial Class A Member shall not be entitled to exercise any vote(s) until the expiration of the Commercial Development Period.

Section 4.06. Maintenance Obligations of the Commercial Association. The Commercial Association, at its expense, shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the Commercial Common Areas and all improvements located thereon for the common benefit of the Commercial Subdivision. This shall include, without limitation, the maintenance, repair, replacement and painting of the following landscaping and improvements (to the extent that such improvements or landscaping are located upon or constitute Commercial Common Areas): (a) all private roadways, driveways, pavement, sidewalks, walkways and uncovered parking spaces; (b) all lawns, trees, grass and landscape areas, shrubs and fences, except as otherwise set forth hereinbelow; (c) all conduits, ducts, utility pipes, plumbing, wiring and other facilities

which are part of or located in, or for the furnishing of utility services to, the Commercial Common Areas and which are not for the exclusive use of a single Commercial Lot.

The Commercial Association shall make the determination as to when maintenance, repair, replacement and care shall be done, and its determination shall be binding. Commercial Declarant shall have the right to employ a manager to oversee and implement the Commercial Association's maintenance obligations, and any such management fees incurred thereby shall be paid by the Commercial Association. The Commercial Association shall also perform the other duties prescribed by this instrument or the Commercial Association's Rules and Regulations.

Section 4.07. Maintenance Obligation of the Commercial Lot Owners. The responsibilities of each Commercial Lot Owner shall include:

(A) To clean, maintain, keep in good order, repair and replace at his or her expense all portions of his or her Commercial Lot. Any repair, replacement and maintenance work to be done by a Commercial Owner must comply with any Rules and Regulations of the Commercial Association including architectural control and visual harmony.

(B) To perform his responsibilities in such manner so as not unreasonably to disturb other Commercial Owners within the Commercial Subdivision;

(C) Not to paint or otherwise alter, decorate or change the appearance of any exterior portion of his Improvements, without the written consent of the Commercial Association.

(D) Not to impair the use of any easement without first obtaining the written consents of the Commercial Association and of the Commercial Owner or Owners for whose benefit such easements exists.

(E) Each Commercial Lot Owner shall be deemed to agree by acceptance of delivery of a deed to a Commercial Lot, to repair and/or replace at his or her expense all portions of the Commercial Common Areas which may be damaged or destroyed by reason of his or her own intentional or negligent act or omission, or by the intentional or negligent act or omission of any invitee, tenant, licensee, family member, including, but not limited to any repairs necessary which result from damage incurred by pets or vehicles owned by the Commercial Lot Owner, or owned by any guest, invitee, Tenant or licensee of such Commercial Lot Owner. To the extent that any Commercial Common Area is damaged as an insurable loss and the proceeds from the Commercial Association's insurance policy are utilized to pay

for the loss, the Commercial Owner shall be responsible for payment of the deductible as a Commercial Individual Assessment in accordance with Section 5.03 and Section 10.07 below.

Section 4.08. Construction Defects. The obligations of the Commercial Association and of Commercial Owners to repair, maintain and replace the portions of the Commercial Subdivision for which they are respectively responsible shall not be limited, discharged or unreasonably postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in materials or workmanship in the construction of the project. The undertaking of repair, maintenance or replacement by the Commercial Association or Commercial Owners shall not constitute a waiver of any rights against any warrantor but such rights shall be specifically reserved. Likewise, this Section 4.09 is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by the Commercial Association may be delayed if the Commercial Association does not have the means or the funds to repair the defect or if by repairing the defect, the Commercial Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

Section 4.09. Effect of Insurance or Construction Guarantees. Notwithstanding the fact that the Commercial Association and/or any Commercial Lot Owner may be entitled to the benefit of any guarantee of material and workmanship furnished by any construction trade responsible for any construction defects, or to benefits under any policies of insurance providing coverage for loss or damage for which they are respectively responsible, the existence of construction guarantee or insurance coverage shall not excuse any unreasonable delay by the Commercial Association or any Commercial Lot Owner in performing his obligation hereunder. Likewise, this Section 4.09 is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by the Commercial Association may be delayed if the Commercial Association does not have the means or the funds to repair the defect or if, by repairing the defect, the Commercial Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

ARTICLE V COVENANTS FOR COMMERCIAL ASSESSMENTS

Section 5.01. Commercial Regular Assessments.

(A) Commercial Regular Assessments for the payment of the Commercial Common Expenses shall be made in the manner provided herein, and in the manner provided in the Commercial Bylaws. The Commercial Regular Assessment is established for the benefit and use of the Commercial Association and shall be used in covering all of the Commercial Common Expenses. The initial minimum Commercial Regular Assessment shall be in the total amount of Twenty Thousand and 00/100 Dollars (\$20,000.00). This figure is allocated as follows: Three Thousand and 00/100 Dollars (\$3,000.00) for Commercial Stormwater Permit Maintenance; and Seventeen Thousand and 00/100 Dollars (\$17,000.00) for remaining Commercial Common Expenses. The Commercial Owner's first Regular Assessment (or prorated portion thereof) as divided pursuant to Section 5.03 is to be paid upon the closing of the sale and purchase of the Commercial Owner's Lot, or such other time thereafter as may be set by the Declarant.

(B) From and after January 1 of the year immediately following the conveyance of the first Commercial Lot to an Owner, the minimum assessment may be increased each year not more than fifteen percent (15%) above the minimum Commercial Regular Assessment for the previous year without a vote of the Commercial Membership.

(C) From and after January 1 of the year immediately following the conveyance of the first Commercial Lot to an Owner, the minimum Commercial Regular Assessment may be increased above fifteen percent (15%) by a vote of two-thirds (2/3) of members of each class who are voting in person or by proxy, at a meeting duly called for this purpose. Except, however, increases attributable solely to the annexation of new areas, including new Commercial Common Areas, shall not be subject to this limitation.

Section 5.02. Commercial Special Assessments. In addition to levying Commercial Regular Assessments, and to the extent that the reserve fund is insufficient, the Commercial Board of Directors may levy Commercial Special Assessments to construct, structurally alter, or replace improvements which are a part of the Commercial Common Areas, provided that funds shall not be assessed for any capital improvement without the prior written consent of two-thirds (2/3) of the votes of each Class of Commercial Members who are voting either in person or by proxy at a meeting duly called for such purpose or unless expressly stated in the annual budget.

Section 5.03. Rates of Commercial Assessments. Commercial Regular Assessments and Commercial Special Assessments shall assessed as follows:

(A) Commercial Stormwater Permit Assessments. All Commercial Common Expenses relating to maintenance, repair, upkeep, and compliance of the Commercial Stormwater Permit specifically excluding, however, maintenance, repair, upkeep, and compliance the Stormwater Retention Pond and any drainage areas adjacent thereto, shall be divided among the Commercial Membership in accordance with the following share percentages:

<u>LOT</u>	<u>BUA (ft²)</u>	<u>% SHARE</u>
1	7,600	3.69%
2	7,000	3.40%
3	16,500	8.02%
4	8,200	3.98%
5	8,000	3.89%
6	42,000	20.41%
7	46,700	22.69%
8	34,000	16.52%
9	<u>35,800</u>	<u>17.40%</u>
TOTAL	205,800	100.00%

(B) Stormwater Retention Pond Assessments. All Commercial Common Expenses relating to the maintenance, repair, upkeep, and compliance the Stormwater Retention Pond and any drainage areas adjacent thereto shall be divided among the Commercial Membership in accordance with the following share percentages:

<u>LOT</u>	<u>BUA (ft²)</u>	<u>% SHARE</u>
1	7,600	1.06%
2	7,000	0.99%
3	16,500	2.30%
4	8,200	1.14%
5	8,000	1.11%
6	42,000	5.85%
7	46,700	6.51%
8	34,000	4.74%

9	35,800	4.99%
Comm'l Common Areas	68,879	9.60%
Residential Property	276,600	38.54%
Hotel Property**	93,793	13.07%
Church Property	<u>72,500</u>	<u>10.10%</u>
TOTAL	717,572	100.00%

**The Hotel Property shall be responsible for the annual fee of \$1,500.00 or its percentage share as calculated above, whichever is greater, pursuant to the Agreement recorded in Book 3382, Page 687, of the Onslow County Registry.

(C) All other Commercial Common Expenses shall be divided among the Commercial Membership in accordance with the percentage shares as follows:

<u>LOT</u>	<u>% SHARE</u>
1	7.69%
2	7.69%
3	7.69%
4	7.69%
5	7.69%
6	15.39%
7	15.39%
8	15.39%
9	15.39%

Section 5.04. Commercial Individual Assessment. In the event that the need for maintenance, repair or replacement of any improvement in the Commercial Subdivision, for which the Commercial Association has the maintenance, repair and/or replacement obligation, is caused through the intentional or negligent act or omission of a Commercial Owner, or by the intentional or negligent act or omission of any Commercial Owner's invitee, tenant, licensee, or family member, the cost of such maintenance, repairs or replacements shall be paid by such Commercial Owner. The Commercial Board shall have the maintenance, repair or replacement done and the cost thereof shall be provided by the Commercial Board to said Commercial Owner and shall be paid by said Commercial Owner within thirty

(30) days thereafter, unless an earlier date is otherwise set forth herein.

Section 5.05. Date of Commencement of Assessments; Due Dates; Determination of Regular Assessments; Fine Assessments.

(A) The first pro rata payment of the balance of the current year Commercial Regular Assessment shall be due and payable beginning on the day of closing. The Declarant, its successors and assigns, shall not be required to pay the Commercial Regular Assessment for any Commercial Lot which it owns until such time as Declarant transfers the Commercial Lot to a third party. The Commercial Board of Directors shall fix the amount of the yearly Commercial Regular Assessment to be paid by each Commercial Class A Member against each Commercial Lot at the beginning of each calendar year. Written notice of the monthly Commercial Regular Assessment shall be sent to every Commercial Class A Member subject thereto. The Commercial Board of Directors shall establish the due dates.

(B) The Commercial Board of Directors, or an adjudicatory panel established by the Commercial Board of Directors, may levy a reasonable Commercial Fine Assessment, as a fine or penalty for violation of this Declaration, all in accordance with the Planned Community Act. A lien may be filed for this Commercial Fine Assessment and this Commercial Fine Assessment may be enforced by foreclosure and otherwise treated as a Commercial Regular Assessment.

(C) Both Commercial Regular and Commercial Special Assessments for a Commercial Lot Owner shall be determined by the Commercial Association based upon the proportion that each Commercial Lot bears to the aggregate acreage of Lots located on the Commercial Property, except those owned by Declarant which are not assessed in accordance with Section 5.04(a) above.

Section 5.06. Billing. The Commercial Association shall inform each Commercial Lot Owner of the amount of the total Commercial Regular Assessment due from the Commercial Owner of that particular Commercial Lot. This Commercial Regular Assessment may be paid annually or as otherwise required by the Commercial Association. The Owner of each Commercial Lot must pay his Lot's required Commercial Regular Assessment in advance on the first day of January each year, unless the Commercial Association otherwise directs. Payment is to be made to such person at such an address as Commercial Association determines. Commercial Special Assessments are due thirty (30) days after the bill for the Commercial Special Assessment has been mailed or otherwise sent out by Commercial Association, unless the Commercial Association otherwise directs.

Section 5.07. Notice and Quorum for Actions Authorized Under Sections 5.01(c) and 5.02. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5.01(c) and 5.02 shall be sent to all Commercial Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting the presence of Commercial Members or proxies entitled to cast fifty-one percent (51%) of all the votes of each Class of Commercial Membership shall constitute a quorum. If the required quorum is not present, another meeting shall be called, subject to the same notice requirement, and there shall be no required quorum. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.08. Assessment Certificate. The Commercial Association shall, upon demand, at any reasonable time, furnish to any Commercial Owner liable for Commercial Assessments a certificate in writing signed by an Officer or other authorized agent of the Commercial Association, setting forth the status of said Commercial Assessments; i.e., "current", and if not current, "delinquent" and the amount due. Such certificate shall be conclusive evidence of the payment of any Commercial Assessment therein stated to have been paid. A reasonable charge to cover labor and materials may be made in advance by the Commercial Association for each certificate.

Section 5.09. Books and Records of the Association. The Commercial Association shall keep full and correct books of account. The Commercial Association shall make available to all Commercial Lot Owners and the holders of all first mortgages on Commercial Lots, current copies of the books, records and financial statements of the Commercial Association upon reasonable request during normal business hours. All funds collected by the Commercial Association shall be held and expended solely for the purposes designated by this Declaration and shall be deemed to be held for the use, benefit and account of the Commercial Association and all of the Commercial Lot Owners. All books and records must be kept in accordance with good accounting procedures and must be reviewed at least once a year by an independent accounting firm.

Section 5.10. Non-Payment of Assessment. Any Commercial Assessments levied pursuant to this Declaration which is not paid on the date when due shall be delinquent and shall, together with such interest and other costs as set out elsewhere in this Declaration, thereupon become a continuing lien upon the Commercial Lot which shall bind the Commercial Lot in the hands of the then Commercial Owner and the Commercial Owner's successors and assigns.

If the Commercial Assessment is not paid within thirty (30) days after the due date, the Commercial Assessment shall bear interest at a reasonable rate of one and one-half percent (1.5%) per month (18% per annum) or at such other reasonable rate set by Commercial Association in its minutes, not to exceed the maximum amount allowed by law, and the Commercial Association may bring an action at law against the Commercial Owner personally obligated to pay the same and/or foreclose the lien against the Commercial Lot, in either of which events interest, costs and reasonable attorneys' fees shall be added to the amount of each Commercial Assessment. Each such Commercial Assessment or charge, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the Commercial Owner of such Commercial Lot at the time when the Commercial Assessment fell due. No Commercial Owner may waive or otherwise escape liability for the Assessments by non-use or waiver of use of the Commercial Common Areas or by abandonment of his Commercial Lot.

Section 5.11. Priority of Association Lien. The lien provided for in this Article V shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages which have been filed of record before a claim of this lien hereunder has been docketed in the office of the Clerk of Superior Court in Onslow County, and may be foreclosed in the same manner as a mortgage on real property under power of sale in an action brought by the Commercial Association in accordance with the Planned Community Act. The Commercial Association is entitled to recover its reasonable attorneys' fees and court costs and collection costs, as part of the lien. In any such foreclosure action, the Commercial Association shall be entitled to become a purchaser at the foreclosure sale.

Section 5.12. Disputes as to Common Expenses; Adjustments. Any Commercial Owner who believes that the portion of Commercial Common Expenses chargeable to his Commercial Lot, for which an assessment lien has been filed by the Commercial Association, has been improperly charged against his or her Commercial Lot, may bring action in an appropriate court of law.

Section 5.13. Purchaser at Foreclosure Sale Subject to Declaration, Bylaws, Rules and Regulations of the Association. Any purchaser of a Commercial Lot at a foreclosure sale shall automatically become a Member of the Commercial Association and shall be subject to all the provisions of this Declaration, the Commercial Bylaws and the Commercial Rules and Regulations.

Section 5.14. Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. When the holder of a first mortgage or first deed of trust of record or other purchaser of a Commercial Lot acquires title to the Commercial Lot as a result of foreclosure of the first mortgage first deed of trust or by deed in lieu of foreclosure, such acquirer of title, his, her or its successors and assigns, shall not be solely liable for the share of the Commercial Common Expenses or other Commercial Assessments by the Commercial Association chargeable to such Commercial Lot which became due prior to the acquisition of title to the Lot by such acquirer, other than Commercial Assessments for which a claim of lien has been docketed with the Onslow County Clerk of Superior Court prior to the recordation of the lien being foreclosed. Such unpaid share of Commercial Common Expenses or Assessments shall be deemed to be Commercial Common Expenses collectible from all of the Commercial Lots, including that of such acquirer, his, her or its successors or assigns. This provision shall not relieve the party acquiring title or any subsequent Commercial Owner of the subject Commercial Lot from paying future Commercial Assessments.

Section 5.15. Liability for Assessments upon Voluntary Conveyance. In a voluntary conveyance of a Commercial Lot, any grantee or his or her first mortgagee shall inform the Commercial Board of Directors in writing of such contemplated conveyance and such grantee or first mortgagee shall be entitled to a statement from the Board of Directors of the Commercial Association setting forth the amount of all unpaid Commercial Assessments (including current Commercial Assessments) against the grantor due the Commercial Association. Neither the grantee nor the mortgagee shall be personally obligated for any delinquent Commercial Assessments, but such delinquent Commercial Assessments, along with interest, late charges, costs and reasonable attorneys' fees shall be a lien against the Commercial Lot in accordance with Section 5.09 and Section 5.10 herein.

Section 5.16. Late Charge. The Commercial Association may impose a charge against any Commercial Lot Owner who fails to pay any amount assessed by the Commercial Association against his Commercial Lot within ten (10) days after such Commercial Assessments are due and payable and who fails to exercise his rights under this Declaration or under the laws of the State of North Carolina to successfully contest such Commercial Assessment. The amount of the late charge shall be the greater of (i) twenty and 00/100 Dollars (\$20.00), or (ii) twenty percent (20%) of the delinquent amount, or such other amount as may be determined by the Commercial Association from time to

time. Additionally, if a Commercial Lot Owner shall be in Default in payment of an installment upon an assessment or of a single monthly assessment, the Commercial Association has the right to accelerate all monthly Commercial Assessments remaining due in the current fiscal year. The total of such Commercial Assessments, together with the delinquent Commercial Assessments shall then be due and payable by the Commercial Lot Owner no later than ten (10) days after the delivery of written notice of such acceleration to the Commercial Lot Owner or twenty (20 days) days after mailing of such notice to him by certified mail, whichever occurs first. If such acceleration amount is not paid by the due date, the above-described late charge may be imposed on the part of such accelerated amount not paid by the due date.

Section 5.17. Miscellaneous Provisions.

(A) The Commercial Association may change the interest rate due on delinquent Commercial Assessments (including any late charges), except that the rate cannot be changed more often than once every six (6) months. As of its effective date, the new interest rate will apply to all Commercial Assessments then delinquent.

(B) The Commercial Owner has the sole responsibility of keeping the Commercial Association informed of the Commercial Owner's current address if different from the Commercial Lot owned. Otherwise notice sent by Commercial Association to the Commercial Lot or to the address on record with the Onslow County Tax Collector is sufficient for any notice requirement under this Declaration.

(C) The lien under this Article V arises automatically, and no notice of lien need be recorded to make the lien effective.

(D) The Commercial Assessment lien includes all collection costs, including demand letters, preparation of documents, reasonable attorneys' fees, court costs, filing fees, collection fees, and any other expenses incurred by the Commercial Association in enforcing or collecting the Commercial Assessment.

(E) Any Commercial Assessment otherwise payable in installments shall become immediately due and payable in full without notice upon Default in the payment of any installment. The acceleration shall be at the discretion of the Commercial Board.

(F) No Owner of a Commercial Lot may exempt himself or herself from liability for his or her contribution toward the

Commercial Common Expenses by waiver of the use or enjoyment of any of the Commercial Common Areas or by the abandonment of his or her Lot.

(G) This Section 5.17 applies to every type of Commercial Assessment.

ARTICLE VI
COMMERCIAL EASEMENTS AND ENCUMBRANCES

Section 6.01. Easement for Encroachments. All buildings, all utility lines, and all other improvements as originally constructed by or on behalf of Commercial Declarant or its assigns shall have an easement to encroach upon any setback, Commercial Lot or Commercial Common Area as a result of the location of any building, utility lines and other improvements across boundary lines between and along Commercial Lots and/or the Commercial Common Areas, or as a result of building or improvement movement or alterations or additions from time to time, provided that such alterations or additions have complied with the requirements of this Declaration.

Section 6.02. Commercial Lot's Utility Easements. Easements are granted in favor of each Commercial Lot Owner to and throughout the Commercial Common Areas and, if necessary, the setback areas of any other Commercial Lots, as may be necessary for the installation, maintenance, repair and use of underground water, gas, sewer, power and other utilities and services including power and communication, now or hereafter existing, including maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or other components. The foregoing notwithstanding, no Commercial Lot Owner (other than Declarant) may exercise the easement rights reserved in this Section 6.02 without the prior written approval of the Commercial Board as described in Section 6.07 below and the Declarant during the Commercial Development Period.

Section 6.03. Utility Easements. Easements are reserved and/or granted hereby in favor of the Commercial Declarant and/or the Commercial Association through each Commercial Lot (provided that such easements shall not materially and unreasonably interfere with the use of any improvement located upon any Commercial Lot) and the Commercial Common Areas for the purpose of installing, laying, maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or other components throughout the Commercial Common Areas. Without limiting any other provision in this Article VI, it is understood that Commercial Declarant's easement rights reserved

herein may be utilized for the benefit of property within or outside of the Commercial Subdivision. Each Commercial Lot Owner and/or his respective mortgagee by acceptance of a deed conveying such ownership interest and each mortgagee encumbering such ownership interest, as the case may be, hereby irrevocably appoint Commercial Declarant, or the Commercial Association, as the case may be, as his attorney in fact, coupled with an interest, and authorize, direct and empower such attorney, at the option of the attorney, to execute, acknowledge and record for and in the name of such Commercial Lot Owner and his mortgagee, such easements or other instruments as may be necessary to effect the purpose of this Section 6.03. The easements may be assigned and/or granted by the Commercial Declarant and/or the Commercial Association to any utility or service company.

Section 6.04. General Easements. An easement is hereby reserved and/or granted in favor of the Commercial Declarant and/or the Commercial Association in, on, over and through the Commercial Common Areas, the Commercial Lots and/or Improvements for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, policing, replacing and otherwise dealing with the Commercial Common Areas, Commercial Lots, including all improvements thereon as required or permitted by the Commercial Constituent Documents or applicable law. An easement is hereby reserved in favor of Commercial Declarant over the Commercial Common Areas for the purpose of advertising or promoting sales of Commercial Lots in the Commercial Subdivision.

Section 6.05. Access Easement. Appurtenant to each Commercial Lot is an easement over any Commercial Common Area for necessary pedestrian and vehicular ingress and egress to and from any such Commercial Lot over the Commercial Common Areas, to and from a thoroughfare. The easement shall be over such walkways, driveways, or other ways as are designated by the Commercial Declarant and/or the Commercial Association and shall be subject to the terms of the Commercial Constituent Documents.

Section 6.06. Parking. Easements are granted in favor of each Commercial Lot Owner, lessees, invitees and licensees and the invitees and customers of such lessees, invitees and licensees for the vehicular parking within the surface vehicular parking spaces located on the Commercial Property; provided, however, Commercial Declarant may, in the Commercial Rules and Regulations, establish, and change from time to time, rules regarding towing and parking violations and the designation of certain parking areas for use by Commercial Owners, their employees, Tenants, licensees and business visitors. Declarant reserves the right to issue parking decals, register the license

plate numbers of Commercial Owners, their employees, Tenants, licensees and business visitors, and levy fines for the violation of any rules and regulations regarding parking. A sufficient number of parking spaces shall be maintained upon the Commercial Lots to comply with all governmental requirements with respect to parking on the Commercial Lots. Commercial Declarant reserves the right, in its sole discretion, to increase the number of surface vehicular parking spaces on the Commercial Property and to designate such additional spaces for use by Commercial Owners, their employees, tenants, licensees and business visitors.

Section 6.07. Use of Easement. Any use of the rights and easements granted and reserved in this Article VI shall be reasonable. If any damage, destruction, or disturbance occurs to a Commercial Lot or Commercial Common Area as a result of the use of any easement or right, the Commercial Lot or Commercial Common Area shall be restored by, or at the direction of, the Commercial Association promptly in a reasonable manner at the expense of the person or persons making the use of the easement or right that resulted in the damage, destruction or disturbance. Before beginning work, the Commercial Association may require all or any part of the expected expense to be prepaid by that person or those persons liable for the expense. Additionally, should any Commercial Lot Owner other than Declarant elect to exercise its easement rights hereunder, it shall be required to obtain the Commercial Board's prior written approval (not to be unreasonably withheld), after providing the Commercial Board with detailed plans of its proposed work, as well as evidence of appropriate insurance and other such reasonable information or assurances as the Commercial Board may require. No easement may be granted across, through, over, or under any Commercial Lot or Commercial Common Area, which materially restricts ingress and egress to the Commercial Lot or Commercial Common Area, unless reasonable alternate ingress and egress is provided or unless the restrictions is only temporary. All easements reserved hereunder shall be perpetual and non-exclusive.

Section 6.08. Reservation of Access Easement by Commercial Declarant. Commercial Declarant reserves an easement for itself, its grantees, successor and assigns, to enter upon the Commercial Subdivision for access, including ingress and egress for both vehicles and pedestrians, to and from any public street, road, land, walkway or right-of-way. The easement shall be over the streets, sidewalks, bridges and other access ways of the Commercial Subdivision. Commercial Declarant further reserves the right to connect, at Commercial Declarant's

expense, to any street, roadway, walkway or other means of access that are located on the Commercial Common Areas of the Commercial Subdivision. This reservation of access easements and the right of connection should be construed liberally in favor of the Commercial Declarant, in order to facilitate the development of all or any portion of the Properties.

Section 6.09. Reservation of Construction Easement by Commercial Declarant. The Commercial Declarant reserves the non-exclusive right and easement to temporarily go upon the Commercial Subdivision in order to complete the development of the Commercial Subdivision and the construction of the improvements to be located therein, and to develop other neighboring land. The easement shall be construed broadly in favor of the Commercial Declarant, including giving Commercial Declarant the right to store temporarily construction materials, equipment or dirt. After the construction is finished, Commercial Declarant must, at Commercial Declarant's cost, repair any damage done to the Commercial Subdivision including to any landscaping. As soon as reasonably possible after Declaration has completed construction on the neighboring land, Commercial Declarant must remove all debris, equipment, materials and dirt from the Commercial Subdivision.

Section 6.10. Roadway Easement. Commercial Declarant has reserved for the benefit grants to all Commercial Lot Owners the non-exclusive right of ingress and egress on, over and across all public and private roadways (the "Roadways") located on or to be located on a portion of the Commercial Subdivision which private roadways extend between one or more publicly dedicated streets. Roadways other than those (if any) that have been accepted by applicable governmental authorities for maintenance, constitute Commercial Common Areas and shall be maintained, insured, and repaired by the Commercial Association in accordance with this Declaration. The Commercial Declarant hereby reserves the right (but not the obligation), in its sole discretion, to annex additional Roadways into the Commercial Subdivision. Notwithstanding the foregoing to the contrary, no part of the Roadway shall be dedicated or transferred to a unit of local government without acceptance of the unit of local government involved.

Section 6.11. Declarant's Easements: General. The easements and grants reserved for and granted to the Commercial Declarant also benefit and bind any heirs, successors and assigns of Declarant and their respective guests, invitees or lessees, including, without limitation, assignees of Declarant who do not own property within the Commercial Subdivision.

Section 6.12. Easements to Run with Land. All easements and rights described in this Article VI are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Commercial Declarant, its successors and assigns, and any Commercial Owner, purchaser, mortgagee, and other person or entity now or hereafter having an interest in the Commercial Subdivision, or any part or portion of it.

Section 6.13. Reference to Easements and Deeds. Reference in the respective deeds of conveyance or any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees in said instruments as fully and completely as those such easements and rights were recited fully and set forth in their entirety in such instruments.

ARTICLE VII

COMMERCIAL DESIGN AND ARCHITECTURAL CONTROL

Section 7.01. Commercial Architectural Control Committee. For purposes of this Article VII, the Commercial Declarant shall function as the Commercial Architectural Committee (the "Commercial Committee") so long as Commercial Declarant is a Commercial Class B Member of the Commercial Association. After the termination of the Declarant's Commercial Class B Membership, the Board of Directors of the Commercial Association shall appoint the members of the Commercial Committee to carry out the functions set forth in this Article.

Section 7.02. Reservations. The Commercial Declarant reserves the right to change, alter, or redesignate roads, pedestrian easements, utility and drainage facilities, plus such other present and proposed amenities or facilities as may, in the sole judgment of the Commercial Declarant be necessary or desirable.

Section 7.03. Variances. The Commercial Committee shall be empowered to allow adjustments of the conditions and restrictions stated herein order to overcome practical difficulties and prevent unnecessary hardships in the application of the regulations contained herein, provided, however, that such is done in conformity to the intent and purposes hereof, and provided, also, that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the Commercial Subdivision. Variances and adjustments of height, size, and setback requirements may be granted hereunder.

Section 7.04. Development Concept. It is the express intention of the Commercial Declarant to maintain in this commercial development a uniform plan of development that will blend with and not detract from the natural environment with respect to design, type and general appearance of the structures to be erected on the Commercial Lots. Commercial Owners are encouraged to have their architects contact the Commercial Committee prior to any costly design work for concept guidelines pertaining to the Commercial Subdivision.

Section 7.05. Submission & Approval of Plans. The proposed Site and Grading Plans, Building Plans and Specifications, Exterior Colors and Finishes, and Construction Schedule must be approved by the Commercial Committee. One (1) copy of all plans and related data shall be furnished to the Commercial Committee for its records. Until all of the above listed prerequisite plans are approved no improvements or structures shall be erected, placed, or altered on any Commercial Lot. The material used, as well as the design, shall be subject to the prior written approval of the Commercial Committee. The Commercial Declarant or Commercial Committee's control shall be absolute and in its sole discretion and they may require modifications of plans based on solely aesthetic considerations, or any offsite considerations. The Commercial Committee's approval is required for any improvement including, but not limited to, location and construction of individual buildings, driveways, outbuildings and fences.

The Site and Grading Plans should show the proposed location of each building, structure, driveway, parking area, other improvements, and proposed alterations to the physical characteristics of the site. The grade, elevation, or physical characteristics (including but not limited to slopes and tree growth) of any such Commercial Lot shall not be altered in any way whatsoever without prior written approval of the Commercial Committee based upon a Site or Grading Plan.

The Commercial Committee encourages the planting of flowering shrubs and trees; however, all tree removal or planting of trees, bushes, shrubs, grasses, or other vegetation whatsoever, shall be based upon a Site Plan, Landscaping Plan, or Planting Plan which has been submitted to and received written approval from the Commercial Committee.

Upon the written request of a Commercial Lot Owner for approval of plans, the Commercial Committee shall have thirty (30) days within which to approve or disapprove plans. In the event of failure to approve or disapprove within thirty (30) days, such approval will not be required provided the design of

proposed building is in harmony with the existing structures in this area. If the Commercial Committee approves the construction of such improvements, it shall issue a certificate evidencing such approval.

Refusal or approval of any such plans or specifications may be based by the Commercial Committee upon grounds, including purely aesthetic and environmental considerations, that in the sole and absolute discretion of the Commercial Committee shall seem sufficient.

Without the prior written consent of the Commercial Committee, no changes or deviations in or from such plans or specification as approved shall be made. No alterations in the exterior appearance of any building or structure, or in the grade, elevation, or physical characteristics of any Commercial Lot shall be made without like approval by the Commercial Committee.

Upon completion of approved construction, the Commercial Committee shall inspect the construction to insure that the approved Plans and samples were complied with by the Commercial Owner. No structure may be occupied or used until the issuance by the Commercial Committee of a certificate of compliance. The certificate of compliance shall be issued by the Commercial Committee without fee; provided, however, that in the event that the Commercial Committee's first inspection of the construction reveals deviations or deficiencies from the approved Plans and samples, the Commercial Committee may charge a fee of \$50.00 for every subsequent inspection which is necessary to insure compliance with the approved Plans and samples. Any such fee must be paid before the issuance of the compliance certificate.

If the finished building or other structure does not comply with the submitted plans and specifications, the Commercial Committee retains the right to make the necessary changes at Commercial Owner's expense, and the further right to file under the North Carolina lien laws notice of liens for any costs incurred.

Section 7.06. Limitation of Liability. Neither Commercial Declarant nor the partners, officers, directors, employees and/or agents of declarant shall be liable in damages or otherwise to any Commercial Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with any submittal of plans for review and approval under this Declaration. Without the prior written consent of Commercial Declarant, no Owner who submits or resubmits its plans may bring an action or suit against Commercial Declarant, or Commercial Declarant's partners, officers, directors, employees

and/or agents to recover any such damages, and such parties hereby release, remise, and quit claim all claims, demands and causes of action for damages arising out of or in connection with any mistake of judgment, negligence or nonfeasance of Commercial Declarant or its partners, officers, directors, employees and/or agents relating to review and approval, disapproval or failure to respond with respect to any plans which are submitted or resubmit it under this Declaration; and such parties hereby waive all rights and entitlements they may have under any provision or principled law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

Section 7.07. No Liability for Design or Other Defects. The approval of any plans under this Declaration by Commercial Declarant shall not impose any liability or responsibility whatsoever upon Commercial Declarant or its partners, officers, directors, employees and/or agents with respect to the following: (i) with respect to the compliance or noncompliance of any such plans, or any structures erected or installed in accordance therewith, with applicable zoning ordinances, building codes, signage ordinances, or other applicable governmental laws, ordinances or regulations; or (ii) with respect to defects in or relating to the plans, including, without limitation, defects relating to engineering matters, structural design matters and the quality or suitability of materials.

ARTICLE VIII COMMERCIAL USE RESTRICTIONS

Section 8.01. Allowed Uses. Except as herein provided, Commercial Lots shall be used solely for the purposes as allowed, either as a "permitted use" or "special use," under the Unified Development Ordinance of the Town of Swansboro, or other applicable laws or regulations, as now provided, and hereinafter as may be amended from time to time.

Section 8.02. Prohibited Uses. No Commercial Lot or any future subdivided Commercial Lot in the Commercial Subdivision, shall be used for any of the following purposes:

- (A) tattoo parlor;
- (B) bingo parlor;
- (C) labor camps;
- (D) commercial storage of building or construction materials (except temporarily in connection with the repair, maintenance or construction of structures by Commercial Owners or Commercial Common Areas as is

- permitted herein, or for the preparation, cleanup and restoration after any hurricane or storm);
- (E) smelting of iron, tin, zinc or other ores;
 - (F) refining of petroleum or of petroleum products;
 - (G) community fairs, flea markets, open-air stalls or carnivals (except as approved by the voting Members to which are allocated more than 50% of the votes under Article III or as decided by Commercial Declarant);
 - (H) rodeos;
 - (I) horse shows;
 - (J) shooting or athletic events;
 - (K) fortune-telling;
 - (L) sale slots for prefabricated structures;
 - (M) tire recapping plants;
 - (N) Farm and heavy construction equipment and implement sales, leasing, service, storage, and similar activities;
 - (O) truck terminals;
 - (P) lumber, planing or saw mills;
 - (Q) pulpwood yards;
 - (R) storage yards;
 - (S) taxidermy;
 - (T) cemeteries (public and private);
 - (U) commercial poultry, livestock, and swine production;
 - (V) cattle feeder lots or furbearing animal rearing or breeding farms;
 - (W) animal kennels;
 - (X) abattoirs;
 - (Y) junk yards;
 - (Z) baling, storage or processing of scrap metal, glass, paper, rags, or storage or processing of wrecked or junked motor vehicles; quarries;
 - (AA) race tracks;
 - (BB) raceways or drag strips;
 - (CC) truck stops;
 - (DD) sanitary landfills or garbage disposal areas;

- (EE) trailer or mobile home parks;
- (FF) any type of outdoor storage;
- (GG) nude or seminude dance clubs;
- (HH) massage parlors (excluding day spas, medical treatment and therapeutic facilities allowed by applicable zoning laws) or cinemas or bookstores selling or exhibiting material of a pornographic or adult nature;
- (II) any business the operation of which would potentially result in the escape, disposal or release in any amount of biologically active, toxic or hazardous wastes, materials, or substances, or any other substance that is prohibited, limited or regulated by any governmental or quasi-governmental authority or that, even if not so regulated, could or does pose a hazard to health and safety of the occupants of the Commercial Lot or surrounding property (collectively "Hazardous Substances") in violation of any applicable Environmental Laws; or
- (JJ) anything objectionable to Commercial Declarant and/or not keeping with the character of the Commercial Subdivision as solely determined by Commercial Declarant.

Section 8.03. Pre-Construction Maintenance of Lots. Prior to commencement of the erection of any improvement on each Commercial Lot, the Owner of such Commercial Lot, shall from time to time cut, or cause to be cut, and keep cut or cause to be kept cut, all weeds and brush on such Lot and shall remove any resulting debris, to comply with Section 8.04 below. Should such Owner fail to do so the Commercial Association may do so, and the reasonable expenses thereof shall be paid by such Commercial Owner to the Commercial Association within thirty (30) days thereafter as a Commercial Individual Assessment in accordance with Section 5.04.

Section 8.04. Preservation of Well-Kept Buildings and Grounds. Each Commercial Lot Owner shall prevent any unclean, unsightly or unkempt conditions of any buildings or grounds on his Commercial Lot which would tend to substantially decrease the beauty of any of the property or diminish or destroy the enjoyment of other Commercial Lots by the Commercial Owners thereof. This restriction includes, but is not limited to, a prohibition against storage on any Commercial Lot of anything unclean, unsightly or unkempt.

Section 8.05. Reconstruction. Any building on any Commercial Lot which is destroyed in whole or in part by the fire,

windstorm, flood or other Act of God must with reasonable promptness be rebuilt or all debris from such destruction removed and the Commercial Lot restored to the condition it was in prior to commencement of construction of such building. Any such reconstruction must be commenced within six (6) months from the date of such destruction. All debris must be removed and the Commercial Lot restored to its prior condition within three (3) months of such destruction.

Section 8.06. Subdividing. No Commercial Lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Commercial Association. However, the Commercial Association hereby expressly reserves to itself, its successors or assigns, the right to re-plat any two (2) or more Commercial Lots shown on the Plat of the Subdivision in order to create a modified building Commercial Lot or Lots; and to take such steps as are reasonably necessary to make such re-platted Commercial Lot suitable and fit as a building site, said steps to include but not limited to the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of the said re-platted Commercial Lots.

Section 8.07. Exterior Antennae, Satellite Dishes and Aerials. Exterior radio and television aerials and satellite dishes for reception of commercial broadcasts shall not be permitted in the Commercial Subdivision without prior written permission of the Commercial Association, or assigns, as to design, appearance and location; and no other aerials or satellite dishes (for example, without limitation, amateur short wave or ship to shore) shall be permitted in the Commercial Subdivision.

Section 8.08. Signs, Billboards, Nuisances. Except as reserved by Commercial Declarant, no advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the Commercial Property subject to this Declaration without the prior written approval of the Commercial Board.

Section 8.09. Obstruction of Commercial Common Areas. There shall be no storage or parking of any items in any part of the Commercial Common Areas, except as permitted by the Commercial Rules and Regulations.

Section 8.10. Internal Ownership. No Commercial Owner may lease, deed, sell, convey, or otherwise transfer his Commercial Lot or any portion thereof under any time-sharing or interval ownership arrangement.

Section 8.11. Leases. Any lease of a Commercial Lot or portion thereof shall be in writing and shall provide that the

terms of the lease shall be subject in all respects to the Commercial Constituent Documents and that any failure by the lessee to comply with all the terms of such Commercial Constituent Documents shall constitute a default under the lease.

Section 8.12. Hazardous Activities. Nothing shall be done or kept on any Commercial Lot or in the Commercial Common Area which shall increase the rate of insurance on the Commercial Common Area or any other Commercial Lot without the prior written consent of the Commercial Board of Directors. No Commercial Owner shall permit anything to be done or kept on his Commercial Lot or in the Commercial Common Area which would result in the cancellation of insurance on any part of the Commercial Common Area, or which would be in violation of any law.

Section 8.13. Sight Distances at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Commercial Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet (25') 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 line limitations shall apply on any Lot within ten feet (10') 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 intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 8.14. Nuisances. No noxious, offensive, or illegal activity shall be carried out on or conducted upon any Commercial Lot nor shall anything be done on any Commercial Lot that shall be or become an unreasonable annoyance or nuisance to the Properties.

Section 8.15. Screening of Refuse Receptacles. Each Commercial Lot Owner shall provide receptacles for ashes, trash, rubbish, or garbage on his Commercial Lot in a screened area not generally visible from the road, other Lots, or from common easement areas; or provide underground receptacles (or similar facility) in accordance with reasonable standards established by the Commercial Association.

Section 8.16. Mailboxes and Newspaper Receptacles. No mail box, paper box, or other receptacle of any purpose shall be erected or located in the road right of way or on any Commercial

Lot. Mailboxes will be constructed at a central location within the Commercial Common Area by the Declarant with each Lot receiving one (1) mail receptacle.

Section 8.17. Fuel Tanks and Similar Storage Receptacles. No fuel tanks or similar storage receptacles shall be exposed to view. Any such receptacles may be installed only within an accessory building with a screened area (so as not to be generally visible from the road, adjoining Lots, or Commercial Common Areas) or buried underground; provided, however, that nothing contained herein shall prevent the Commercial Association from erecting, placing or permitting the placing of tanks, or other apparatus, on the property for uses related to the provision of utility or other service.

Section 8.18. Fences and Walls. No fence, bulkhead, or wall of any purpose shall be erected or located on any Commercial Lot, easement, or Commercial Common Area unless and until the plans and specifications showing the nature, shape, height, materials, and location for said fence or wall shall have been approved by the Commercial Association. The term "fence" shall include, but not be limited to, a wall, fence, landscaping, berm, or hedge which acts as a fence or privacy or security-inducing structure.

Section 8.19. Exterior Lights. All light bulbs or other lights installed in any fixture located on the exterior of any building or other structure located on any Commercial Lot shall be clear or white lights or bulbs. No mercury vapor or similar wide area lighting shall be allowed without prior Commercial Association approval.

Section 8.20. Driveway Locations. The Commercial Declarant or Commercial Association has the right to decide in its sole and absolute discretion the precise site and location of any driveway location placed upon any right-of-way; provided, however, that the Commercial Owner shall be given the opportunity to recommend a specific site for such improvements.

Section 8.21. Street Lighting Agreement. The Commercial Declarant reserves the right to subject the property in this Commercial Subdivision 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 which may require an initial payment and/or a continuing monthly payment to an electric utility company by the Owner of each Commercial Lot.

Section 8.22. Impairment of Structural Integrity of Building. Nothing shall be done in any building or on any Commercial Lot, or in, on or to the Commercial Common Areas which will impair

the structural integrity of any building or which, absent the prior written approval of the Commercial Board, would structurally change any building.

Section 8.23. Alteration of Commercial Common Areas. Nothing shall be altered or constructed in or removed from the Commercial Common Areas except as otherwise provided in this Declaration and except upon the written consent of the Commercial Association. In addition, a Commercial Lot Owner must obtain the prior written consent of the Commercial Board prior to installing and landscaping or planting any flowers, herbs or vegetables, on any portion of the Commercial Subdivision (including any Commercial Lot).

ARTICLE IX COMMERCIAL STORMWATER MANAGEMENT

Section 9.01. Stormwater Permits. All Commercial Lots are subject to the State of North Carolina rules and regulations concerning stormwater runoff as these rules and regulations may be amended from time to time. Without limiting the foregoing, Commercial Declarant or its designee, including the Commercial Architectural Control Committee, reserves the right to impose additional restrictions upon the Commercial Property as and to the extent required by the terms of any stormwater permit applicable to the Commercial Property or any portion thereof issued by the State of North Carolina. Such additional restrictions may be imposed by Declarant by the recording of a Supplemental Declaration, and no joinder or consent of the Commercial Association or any other Commercial Lot Owner or person shall be required for such Supplemental Declaration.

No party shall apply for or obtain any stormwater permit applicable to any portion of the Commercial Property without the prior written consent of Commercial Declarant (which may be granted or withheld in Commercial Declarant's sole and absolute discretion). Except in the specific event of Commercial Declarant's consent (if applicable) in accordance with the foregoing sentence, it is the intent of the Commercial Declarant and this Declaration that all such permits are to be in the name of Commercial Declarant until such time as Commercial Declarant elects to assign them to the Commercial Association as provided herein. Commercial Declarant reserves the right to transfer the stormwater management permit(s) and the responsibility for maintenance of the stormwater runoff system and facility to the Commercial Association without the need for agreement or consent by the Commercial Association. At the time of such transfer, the Commercial Association shall accept conveyance and transfer

of the stormwater permit(s) and carry out and abide by the duties and obligations contained therein.

Section 9.02. Site Coverage and Stormwater Runoff Rules.

(A) The following restrictions set forth in this Section 9.02(a) are intended to insure continued compliance with State Stormwater Management Permit Number SW8 091001, as amended, as issued by the Division of Water Quality, under NCAC 2H.1000 and any subsequently issued permits or modifications thereof:

(1) The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Commercial Stormwater Management Permit.

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

(3) The covenants set forth in this Article IX pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality, or its successor agency.

(4) Alteration of the drainage as provided in the Commercial Stormwater Management Permit may not take place without the concurrence of the Division of Water Quality, or its successor agency.

(5) The maximum allowable built-upon area ("BUA") per Commercial Lot, in square feet, is as listed below:

<u>LOT</u>	<u>BUA (sq.ft.)</u>
1	7,600
2	7,000
3	16,500
4	8,200
5	8,000
6	42,000
7	46,700
8	34,000
9	35,800

These allotted amounts include any built-upon area constructed within the Commercial Property boundaries and that portion of the right-of-way between the front

Commercial Lot lines and the edge of the pavement. Built-upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

(6) All runoff from the built-upon areas on a Commercial Lot must drain into the permitted stormwater system. This may be accomplished through a variety of means including roof drain gutters, which drain to the street, grading the Commercial Lot to drain toward the street, or grading perimeter swales to collect the Commercial Lot runoff and directing it into the street or into a component of the stormwater system that ultimately drains into the stormwater system. Commercial Lots that will naturally drain into the stormwater system are not required to provide these additional measures.

(7) Each Commercial Lot whose ownership is not retained by the permittee, is required to submit a separate storm water permit application to the Division of Water Quality and received a permit prior to construction.

(8) Transfer to the Commercial Association and facilitation of the transfer to the Commercial Association of the Commercial Storm water Management Permit, SW8 09100, 09100 from the Commercial Declarant shall be incumbent upon the Commercial Association at such time as Declarant requests said transfer.

(9) Commercial Declarant reserves the right in its sole discretion as the Commercial Stormwater Management Permit may be modified to recalculate and redesignate maximum built-upon areas as set forth above, provided such recalculations and redesignations are in accordance with the Commercial Stormwater Management Permit applicable to the Commercial Property (including, without limitation, the imposition of rules or restrictions that Division of Water Quality may require in connection with the annexation of additional property into the scheme of this Declaration). In addition, if any Commercial Lot as finally constructed does not use its allocated built-upon area, Commercial Declarant shall have the sole right to reclaim such excess allotment and reallocate it to other areas within the Properties in its sole discretion.

ARTICLE X

NON-DEDICATED COMMERCIAL STREETS

Section 10.01. Use. All non-dedicated streets constructed within the Commercial Subdivision are reserved as easements of

public access for the common use of Commercial Owners and their guests and invitees, by commercial vehicles authorized to make pick-ups and deliveries, by public and private utilities' personnel, trucks and equipment, by postal authorities and mail carriers, by emergency personnel and vehicles such as police, fire and ambulance, and by such other persons or classes of persons authorized by the Board of Directors of the Commercial Association, as a means of ingress or egress, and for such other uses as may be authorized from time to time by said Commercial Board. Such non-dedicated streets may also include underground utility lines, mains, sewers or other facilities to transmit and carry sanitary sewerage and storm water drainage. Except as provided by this Declaration, no acts shall be taken or things done by a Commercial Owner or the Commercial Association which are inconsistent with the reservation and grant of use and enjoyment hereinabove provided.

Section 10.02. Maintenance, Reconstruction or Resurfacing. The Commercial Association, at the cost and expense of the Commercial Association, shall provide snow removal from, maintenance to and resurfacing or reconstruction of any non-dedicated streets or any storm water drainage facilities included as a part thereof or installed thereunder as it deems necessary or appropriate from time to time within its sole discretion.

ARTICLE XI COMMERCIAL ASSOCIATION INSURANCE

Section 11.01. General Insurance. The Commercial Association shall carry a master policy of fire and extended coverage, vandalism, malicious mischief and liability insurance, and if required by law, workmen's compensation insurance with respect to the Commercial Subdivision and the Commercial Association's administration thereof in accordance with the following provisions:

(A) The Commercial Association shall purchase a master policy for the benefit of the Commercial Association, the Commercial Lot Owners and their mortgagees as their interest may appear, subject to the provisions of this Declaration and the Commercial Bylaws. The "master policy" may be made up of several different policies purchased from different agencies and issued by different companies.

(B) All Commercial Common Areas now or at any time hereafter constituting a part of the Commercial Subdivision shall be insured against fire and other perils covered by a standard extended coverage endorsement, in an amount not less than one hundred (100%) percent of the replacement value

thereof, with a deductible agreed to by the Commercial Board of Directors, exclusive of the cost of the land, foundations, footings, excavation, and architect's fees, without deduction for depreciation. The policy shall have cost of demolition, water damage (excluding floods, backing up of sewers and drains, the running off of surface water, and the overflow of a body of water), and agreed amount endorsements and a deductible on any single loss or group of losses within one year in such amounts as shall be found reasonable by the Commercial Board of Directors, after carefully considering and comparing the increased premium costs resulting from a low deductible with the lower premium costs but higher per loss risk resulting from a high deductible, together with all other pertinent factors. The policy providing such coverage shall provide that no mortgagee shall have any right to apply the proceeds thereof to the reduction of any mortgage debt. Such policy shall provide coverage for built-in fixtures and equipment in an amount not less than one hundred percent (100%) of the replacement cost thereof (subject to the deductible provisions described above) and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Commercial Lot Owner as hereinafter permitted. Such policy shall also contain either a waiver by the insurer of any increased hazard clause, a severability of interest endorsement, or a provision stating that the coverage will not be affected by the act, omission or neglect of any person unless such act, omission or neglect is within the knowledge and control of the Association prior to the occurrence of the loss. Such policy shall not provide coverage for any items of personal property owned by any Commercial Lot Owner.

(C) Such master policy of insurance shall contain provisions requiring the issuance of certificates of coverage and the issuance of written notice to the Commercial Association and to any mortgagee or mortgagees of any Commercial Lot Owner not less than thirty (30) days prior to any expiration, substantial modification or cancellation of such coverage.

(D) Such insurance by the Commercial Association shall not prevent an Owner of a Commercial Lot to obtain insurance on its own property, but no Commercial Lot Owner may at any time purchase individual policies of insurance covering any item which the Commercial Association is required to insure. If any Commercial Lot Owner does purchase such a policy, he or she shall be liable to the Commercial Association for any damages, expenses or losses which it suffers or incurs as a result thereof, and the Commercial Association shall have the same lien rights provided by Article V hereof for Commercial Common

Expense payments with respect to any such damages, expenses or losses not paid to it by such Commercial Owner.

(E) The Commercial Board of Directors shall review the insurance coverage required under this Section 10.01 at least annually, and if any of such insurance coverage becomes impossible or impractical to obtain, the Commercial Association shall obtain coverage that most closely approximates the required coverage with the deductible provisions as determined by the Commercial Board of Directors. In any event, all such insurance must comply, at a minimum, with the applicable requirements set forth in the North Carolina Planned Community Act.

(F) If the required insurance coverage under this Section 10.01 ceases to exist for any reason whatsoever, any mortgagee of any portion of the Commercial Subdivision may remedy that lack of insurance by purchasing policies to supply that insurance coverage. The funds so advanced shall be deemed to have been loaned to the Commercial Association; shall bear interest at a per annum rate two percent (2%) higher than the basic interest rate in any note secured by the mortgagee's mortgage against a portion of the Commercial Subdivision; and shall be due and payable to the mortgagee by the Commercial Association immediately. The repayment of this obligation shall be secured by a Commercial Special Assessment against all Commercial Lot Owners under Article V of this Declaration and shall not require a vote of the Members of the Commercial Association, anything to the contrary in this Declaration notwithstanding.

(G) The Commercial Association shall also maintain liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Commercial Common Areas. The Commercial Association shall try to have its liability insurance contain cross-liability endorsements or appropriate provisions to cover liability of the Commercial Lot Owners, individually and as a group (arising out of their ownership interest in the Commercial Common Areas), to another Commercial Lot Owner.

Section 11.02. Fidelity Insurance. The Commercial Association may elect to purchase fidelity coverage against dishonest acts on the part of Officers and employees, Members of the Commercial Association, members of the Commercial Board, trustees, employees or volunteers responsible for the handling of funds collected and held for the benefit of the Commercial Lot Owners.

The fidelity bond or insurance must name the Commercial Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than the insured's total Commercial Regular Assessment, plus all accumulated reserves and all other funds held by the Commercial Association either in its own name or for the benefit of the Commercial Lot Owners.

Section 11.03. Directors' and Officers' Errors and Omissions Insurance. The Commercial Association may elect to purchase insurance to protect itself and to indemnify any Director or Officer, past or present against expenses actually and reasonably incurred by him/her in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such Director or Officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the Association; or to obtain such fuller protection and indemnification for Directors and Officers as the law of North Carolina permits. The policy or policies shall be in an amount to be reasonably determined by the Commercial Association.

Section 11.04. Premiums. All premiums upon insurance purchased by the Commercial Association shall be Commercial Common Expenses. Notwithstanding the foregoing, the Commercial Lot Owners may be responsible for certain deductibles to the insurance policies purchased by the Commercial Association as outlined in Section 10.01 and Section 10.07 herein.

Section 11.05. Proceeds. Proceeds of all insurance policies owned by the Commercial Association shall be received by the Commercial Association for the use of the Commercial Lot Owners and their mortgagees as their interest may appear; provided, however, the proceeds of any insurance received by the Commercial Association because of property damage shall be applied to repair and reconstruction of the damaged property, except as may otherwise be permitted by this Declaration.

Section 11.06. Power of Attorney. Each Commercial Lot Owner shall be deemed to appoint the Commercial Association as his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of the master policy or any other insurance policy obtained by the Commercial Association. Without limitation on the generality of the foregoing, the Commercial Association as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefor, to collect proceeds and to distribute the same to the Commercial Association, the

Commercial Lot Owners and their respective mortgagees as their interest may appear, to execute releases of liability and to execute all documents and to do all things on behalf of such Commercial Lot Owners and the Commercial Subdivision as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Commercial Association in regard to such matters.

Section 11.07. Responsibility of Commercial Lot Owner. The Commercial Association shall not be responsible for procurement or maintenance of any insurance covering any Commercial Lot or the contents of and Commercial Lot nor the liability of any Commercial Lot Owner for injuries not caused by or connected with the Commercial Association's operation, maintenance or use of the Commercial Common Areas or other property located in the Commercial Subdivision. Each Commercial Lot Owner shall, at his or her own expense, obtain comprehensive public liability insurance with a financially responsible insurance company or companies licensed to do business in the State of North Carolina insuring against claims on account of loss of life, bodily injury, or property damage that may arise from, or be occasioned by, the condition, use or occupancy of such Commercial Owner's Lot; and such insurance shall provide for a limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) for personal or bodily injury or death to any number of persons arising out of any one occurrence, and a limit of not less than One Million and 00/100 Dollars (\$1,000,000.00) with respect to any instance of property damage. Such insurance shall extend to the contractual obligations of the insured party arising out of the indemnification obligations set forth in this Declaration. Each Commercial Lot Owner shall furnish to the Commercial Association evidence that the insurance described above is in full force and effect. All policies of insurance carried by any Commercial Lot Owner pursuant hereto shall name the Commercial Association as an additional insured and shall provide that the same may not be canceled or amended without at least thirty (30) days prior written notice being given by the insurer to the Commercial Association.

Each Commercial Lot Owner agrees that if any Commercial Owner damages a building or other improvements now or at any time hereafter constituting a part of the Commercial Common Areas of the Commercial Subdivision which is covered under the Commercial Association's insurance policy, the Owner or Owners causing such damage shall be responsible for paying the lesser of: (a) the insurance deductible due under the Commercial Association's insurance policy; or (b) the cost to repair and/or replace any damage to a building or other improvements, which

amount shall be due within ten (10) days after the delivery of written notice of such deductible due or replacement/repair costs by the responsible Lot Owner(s) or twenty (20) days after mailing of such notice by certified mail, whichever occurs first. In the event a Lot Owner refuses or fails to pay the insurance deductible or replacement/repair costs in the time period provided in the preceding sentence, the amount thereof may be advanced by the Commercial Association and the amount so advanced by the Commercial Association shall be assessed to such Owner as an Commercial Individual Assessment, which shall be due and payable following seven (7) days written notice.

Section 11.08. Release. All policies purchased under this Article XI by either the Commercial Association or the individual Commercial Lot Owners shall provide for the release by the issuer, thereof, of any and all rights of subrogation or assignment and all causes and rights of recovery against any Commercial Lot Owners, member of their family, their employees, their tenants, servants, agents and guests, the Commercial Association, any employee of the Commercial Association, the Commercial Board, or any occupant of a building in the Commercial Subdivision, for recovery against any one of them for any loss occurring to the insured property resulting from any of the perils insured against under the insurance policy.

Section 11.09. Approximate Coverage. If any of the required insurance coverage under this Article XI becomes or is impossible to obtain or can be obtained only at an unreasonable cost, the Commercial Association shall obtain coverage which most closely approximates the required coverage, if such substitute insurance is available.

Section 11.10. Additional Policy Requirements. All such insurance coverage obtained by the Commercial Association shall be written in the name of the Commercial Association, for the use and benefit of the Commercial Association, the Commercial Lot Owners and their mortgagees, as further identified below. Such insurance shall be governed by the provisions hereinafter set forth:

(A) Exclusive authority to adjust losses under policies in force on the Commercial Subdivision obtained by the Commercial Association shall be vested in the Commercial Association provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(B) In no event shall the insurance coverage obtained by the Commercial Association hereunder be brought into contribution with insurance purchased by individual Commercial

Owners, occupants, or their mortgagees, and the insurance carried by the Commercial Association shall be primary.

(C) All casualty insurance policies shall have an agreed amount endorsement with an annual review by one or more qualified persons.

(D) The Commercial Association shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(1) a waiver of subrogation as discussed in Section 11.08;

(2) that no policy may be canceled, invalidated, or suspended on account of the acts of any one or more individual Commercial Owners;

(3) that no policy may be canceled, invalidated or suspended on account of the conduct of any Director, officer or employee of the Commercial Association or its duly authorized manager without prior demand in writing delivered to the Commercial Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Commercial Association, its manager, any Commercial Owner or mortgagee; and

(4) that any "other insurance" clause in any policy exclude individual Commercial Owner's policies from consideration.

ARTICLE XII

PROPERTY RIGHTS IN RESIDENTIAL COMMON AREAS

Section 12.01. Owner's Easements of Enjoyment. Except as herein otherwise provided, each Residential Owner shall have a right and easement of enjoyment in and to the Residential Common Areas, which shall be appurtenant to and shall pass with the title to his Residential Lot. Each Tenant shall have a non-transferable right to use and enjoy the Residential Common Areas, if any, which right shall terminate when such person ceases to have the status of a Tenant. Such rights and privileges shall be subject, however, to the following:

(A) The right of the Residential Board to suspend the right of any Residential Owner or the privilege of any Tenant to use such of the Residential Common Areas that are recreational in nature as determined by the Residential Board for any infraction of the Residential Rules and Regulations relating to the Residential Common Areas for a period not to exceed sixty (60) days for each such infraction, or for any non-payment or

delinquency of the Residential Assessments against such Residential Owner's Lot for a period not to exceed the period of such non-payment or delinquency;

(B) The right of the Residential Board to adopt and enforce and from time to time amend reasonable limitations upon use and Residential Rules and Regulations pertaining to the use of the Residential Common Areas, including regulations limiting guests of Residential Owners and Tenants who may use the Residential Common Areas at any one time;

(C) All applicable provisions of valid easements and/or agreements of the Residential Association relating to the Residential Common Areas;

(D) The right of the Residential Association to grant permits, licenses and public or private easements over Residential Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Residential Property; or

(E) The right of Residential Declarant or the Residential Association to dedicate or convey portions of the Residential Common Areas to applicable governmental authorities for public purposes.

Section 12.02. Extension of Use. Any Residential Owner may extend his right of enjoyment to the Residential Common Areas to the immediate and/or extended members of his family, his Tenants, guests or contract purchasers of the Residential Owner's Lot.

Section 12.03. Title to Common Areas. The Residential Declarant shall convey by deed all Residential Common Areas to the Residential Association in fee simple absolute after the final platting of all Residential Lots in the Residential Subdivision. Any such conveyance shall be subject to taxes for the year of conveyance, and to restrictions, conditions, limitations and easements of record.

Section 12.04. Use of Common Areas by Declarant. In addition to the specific rights and easements reserved herein, Residential Declarant and its affiliates and associates shall have the same rights of use and enjoyment of the Residential Common Areas as the Residential Class A Members during the Residential Development Period, and shall have the same right to use Residential Common Areas for promotional, sales and similar purposes until all of the Residential Lots have been sold.

ARTICLE XIII RESIDENTIAL ASSOCIATION

Section 13.01. Residential Association. The administration of the Residential Subdivision shall be vested in the Residential Association. The Owner of any Residential Lot, upon acquiring title, shall automatically become a Member of the Residential Association and shall remain a Member until such time as his ownership of such Residential Lot ceases for any reason, at which time his membership in the Residential Association shall automatically cease. The Residential Association shall have full power and responsibility to administer, operate, sustain, maintain, and govern the Residential Subdivision including but not limited to, the powers and responsibilities to make prudent investments of funds held by it; to make reasonable Residential Rules and Regulations; to borrow money; to make Residential Assessments; to bring lawsuits and defend lawsuits; to enter into contracts; to enforce all of the provisions of this Declaration, the Residential Bylaws and any other documents or instruments relating to the establishment, existence, operation, alternation of the Residential Subdivision. The powers of the Residential Association shall be construed liberally and shall include, without limitation, all of the powers set forth in Section 47F-3-102 of the Planned Community Act.

Section 13.02. Board of Directors and Officers. The Residential Association shall be governed by a Board of Directors in accordance with the Residential Bylaws. Notwithstanding the provisions contained in this Declaration, the Residential Declarant shall have the right to appoint or remove any member or members of the Residential Board of Directors or any officer or officers of the Residential Association until the end of the Residential Development Period.

Section 13.03. Residential Rules and Regulations. By a majority vote of the Board of Directors, the Residential Association may, from time to time adopt, amend and repeal Residential Rules and Regulations with respect to all aspects of the Residential Association's rights, activities and duties under this Declaration. The Residential Rules and Regulations may, without limitation, govern use of the Residential Subdivision, including prohibiting, restricting or imposing charges for the use of any portion of the Residential Subdivision by Residential Owners, Tenants or others, interpret this Declaration or establish procedures for operation of the Residential Association or the administration of this Declaration; provided, however, that the Residential Rules and Regulations shall not be inconsistent with this Declaration, the Residential Articles, or Residential Bylaws. A copy of the Residential Rules and Regulations, as they may from time to time be adopted, amended or repealed, shall be maintained in the

office of the Residential Association and shall be available to each Residential Owner upon request.

Section 13.04. Membership of Residential Association. Every Owner of a Residential Lot shall be a Member of the Residential Association. Such Residential Owner and Member shall abide by the Residential Association's Rules and Regulations, shall pay the Residential Assessments provided for in this Declaration, when due, and shall comply with decisions of the Residential Association's governing body. Conveyance of fee simple title to a Residential Lot automatically transfers membership in the Residential Association without necessity of further documents. Membership shall be appurtenant to and may not be separated from ownership of any Residential Lot that is subject to Residential Assessment.

Section 13.05. Classes of Membership. The Residential Association shall have two (2) classes of Membership:

(A) Residential Class A Members. Every person, group of persons, or entity which is a record Owner of a fee interest in any Residential Lot within the Residential Property, shall automatically be a Class A Member of the Residential Association except the Declarant during the Residential Development Period; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a Member. A Residential Class A Membership shall be appurtenant to and may not be separated from ownership of any Residential Lot that is subject to Residential Assessment. Residential Class A Members shall be entitled to one (1) vote for each Residential Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record Owner of a fee interest in any Residential Lot, then the vote for the membership appurtenant to such Residential Lot portion shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Residential Lot shall not be cast.

(B) Class B Members. The Residential Class B Member during the Residential Development Period shall be the Residential Declarant. The Residential Class B Membership shall cease and be converted to Residential Class A membership upon the expiration of the Residential Development Period.

(C) Voting. Each Member shall have one (1) vote with respect to each Residential Lot owned by such Member, provided, however, that a Residential Class A Member shall not be entitled

to exercise any vote until the expiration of the Residential Development Period.

Section 13.06. Maintenance Obligations of the Residential Association. The Residential Association, at its expense, shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the Residential Common Areas and all improvements located thereon for the common benefit of the Residential Subdivision. This shall include, without limitation, the maintenance, repair, replacement and painting of the following landscaping and improvements (to the extent that such improvements or landscaping are located upon or constitute Residential Common Areas): (a) all private roadways, driveways, pavement, sidewalks, walkways and uncovered parking spaces; (b) all lawns, trees, grass and landscape areas, shrubs and fences, except as otherwise set forth hereinbelow; (c) all conduits, ducts, utility pipes, plumbing, wiring and other facilities which are part of or located in, or for the furnishing of utility services to, the Residential Common Areas and which are not for the exclusive use of a single Dwelling Unit.

The Residential Association shall make the determination as to when maintenance, repair, replacement and care shall be done, and its determination shall be binding. Residential Declarant shall have the right to employ a manager to oversee and implement the Residential Association's maintenance obligations, and any such management fees incurred thereby shall be paid by the Residential Association. The Residential Association shall also perform the other duties prescribed by this instrument or the Residential Association's Rules and Regulations.

Section 13.07. Maintenance Obligation of the Residential Lot Owners. The responsibilities of each Residential Lot Owner shall include:

(A) To clean, maintain, keep in good order, repair and replace at his or her expense all portions of his or her Residential Lot and Dwelling Unit. Any repair, replacement and maintenance work to be done by a Residential Owner must comply with any Rules and Regulations of the Residential Association including architectural control and visual harmony.

(B) To perform his responsibilities in such manner so as not unreasonably to disturb other persons residing within the Subdivision;

(C) Not to paint or otherwise alter, decorate or change the appearance of any exterior portion of his Dwelling Unit, without the written consent of the Residential Association;

(D) Not to impair the use of any easement without first obtaining the written consents of the Residential Association and of the Residential Owner(s) for whose benefit such easements exists;

(E) Each Residential Lot Owner shall be deemed to agree by acceptance of delivery of a deed to a Residential Lot, to repair and/or replace at his or her expense all portions of the Residential Common Areas which may be damaged or destroyed by reason of his or her own intentional or negligent act or omission, or by the intentional or negligent act or omission of any invitee, tenant, licensee family member, including, but not limited to any repairs necessary which result from damage incurred by pets or vehicles owned by the Residential Lot Owner, or owned by any guest, invitee, Tenant or licensee of such Residential Lot Owner. To the extent that any Residential Common Area is damaged as an insurable loss and the proceeds from the Residential Association's insurance policy are utilized to pay for the loss, the Residential Owner shall be responsible for payment of the deductible as a Residential Individual Assessment in accordance with Section 14.03 and Section 20.07 below.

Section 13.08. Construction Defects. The obligations of the Residential Association and of Residential Owners to repair, maintain and replace the portions of the Residential Subdivision for which they are respectively responsible shall not be limited, discharged or unreasonably postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in materials or workmanship in the construction of the project. The undertaking of repair, maintenance or replacement by the Residential Association or Residential Owners shall not constitute a waiver of any rights against any warrantor but such rights shall be specifically reserved. Likewise, this Section 13.08 is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by the Residential Association may be delayed if the Residential Association does not have the means or the funds to repair the defect or if by repairing the defect, the Residential Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

Section 13.09. Effect of Insurance or Construction Guarantees. Notwithstanding the fact that the Residential Association and/or any Residential Lot Owner may be entitled to the benefit of any guarantee of material and workmanship furnished by any construction trade responsible for any construction defects, or to benefits under any policies of insurance providing coverage

for loss or damage for which they are respectively responsible, the existence of construction guarantee or insurance coverage shall not excuse any unreasonable delay by the Residential Association or any Residential Lot Owner in performing his obligation hereunder. Likewise, this Section 13.09 is not intended to work for the benefit of the person or entity responsible for the construction defect. Also, performance by the Residential Association may be delayed if the Residential Association does not have the means or the funds to repair the defect or if, by repairing the defect, the Residential Association would be compromising the right to sue to have the defect corrected and/or to collect damages caused by the defect.

ARTICLE XIV
COVENANT FOR RESIDENTIAL ASSESSMENTS

Section 14.01. Residential Regular Assessments.

(A) Residential Regular Assessments for the payment of the Residential Common Expenses shall be made in the manner provided herein, and in the manner provided in the Residential Bylaws. The Residential Regular Assessment is established for the benefit and use of the Residential Association and shall be used in covering all of the Residential Common Expenses. The initial minimum Residential Regular Assessment shall be \$450.00 per year.

(B) From and after January 1 of the year immediately following the conveyance of the first Residential Lot to an Owner, the minimum assessment may be increased each year not more than fifteen percent (15%) above the minimum Residential Regular Assessment for the previous year without a vote of the membership.

(C) From and after January 1 of the year immediately following the conveyance of the first Residential Lot to an Owner, the minimum Residential Regular Assessment may be increased above fifteen percent (15%) by a vote of two-thirds (2/3) of members of each class who are voting in person or by proxy, at a meeting duly called for this purpose. Except, however, increases attributable solely to the annexation of new areas, including new Residential Common Areas, shall not be subject to this limitation.

Section 14.02. Residential Special Assessments. In addition to levying Residential Regular Assessments, and to the extent that the reserve fund is insufficient, the Residential Board of Directors may levy Residential Special Assessments to construct, structurally alter, or replace improvements which are a part of the Residential Common Areas, provided that funds shall not be assessed for any capital improvement without the prior written

consent of two-thirds (2/3) of the votes of each Residential Class of Members who are voting either in person or by proxy at a meeting duly called for such purpose or unless expressly stated in the annual budget.

Section 14.03. Residential Individual Assessment. In the event that the need for maintenance, repair or replacement of any improvement on the Property, for which the Association has the maintenance, repair and/or replacement obligation, is caused through the willful or negligent act of an Owner, his family, his pet(s), Resident, the cost of such maintenance, repairs or replacements shall be paid by such Owner. The Board shall have the maintenance, repair or replacement done and the cost thereof shall be provided by the Board to said Owner and shall be paid by said Owner within thirty (30) days thereafter, unless an earlier date is otherwise set forth herein.

Section 14.04. Date of Commencement of Assessments; Due Dates; Determination of Regular Assessments; Fine Assessments.

(A) The first pro rata payment of the balance of the current year Residential Regular Assessment shall be due and payable beginning on the day of closing. The Residential Declarant, its successors and assigns, shall not be required to pay the Residential Regular Assessment for any Residential Lot which it owns until such time as Residential Declarant transfers the Lot to a third party. The Residential Board of Directors shall fix the amount of the yearly Residential Regular Assessment to be paid by each Residential Class A Member against each Residential Lot at the beginning of each calendar year. Written notice of the monthly Residential Regular Assessment shall be sent to every Residential Class A Member subject thereto. The Residential Board of Directors shall establish the due dates.

(B) The Residential Board of Directors, or an adjudicatory panel established by the Residential Board of Directors, may levy a reasonable Residential Fine Assessment, as a fine or penalty for violation of this Declaration, all in accordance with the Planned Community Act. A lien may be filed for this Residential Fine Assessment and this Residential Fine Assessment may be enforced by foreclosure and otherwise treated as a Residential Regular Assessment.

(C) Both Residential Regular and Residential Special Assessments for a Residential Lot Owner shall be determined by the Residential Association based upon the proportion that each Residential Lot bears to the aggregate number of Residential Lots located on the Residential Property, except those owned by Residential Declarant which are not assessed in accordance with

Section 14.04(A) above. The Residential Association's governing body may, at its discretion, waive the Residential Regular Assessment for any year or part of a year for any Residential Lot not occupied as a residence.

Section 14.05. Billing. The Residential Association shall inform each Residential Lot Owner of the amount of the total Residential Regular Assessment due from the Owner of that particular Residential Lot. This Residential Regular Assessment may be paid annually or as otherwise required by the Residential Association. The Owner of each Residential Lot must pay his Residential Lot's required Residential Regular Assessment in advance on the first day of January each year, unless the Residential Association otherwise directs. Payment is to be made to such person at such an address as Residential Association determines. Residential Special Assessments are due thirty (30) days after the bill for the Residential Special Assessment has been mailed or otherwise sent out by the Residential Association, unless the Residential Association otherwise directs.

Section 14.06. Notice and Quorum for Actions Authorized Under Sections 14.01(C) and 14.02. Written notice of any meeting called for the purpose of taking any action authorized under Sections 14.01(C) and 14.02 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting the presence of Members or proxies entitled to cast fifty-one percent (51%) of all the votes of each Residential Class of membership shall constitute a quorum. If the required quorum is not present, another meeting shall be called, subject to the same notice requirement, and there shall be no required quorum. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 14.07. Common Surplus. If the Residential Regular Assessment collected in any given year is in excess of the actual Residential Common Expenses for that year, the Residential Board may, at its sole discretion (a) return each Residential Owner's share of the Residential Common Surplus; (b) credit each Residential Owner's share of the Residential Common Surplus to each Residential Owner's payment as for the Residential Regular Assessment for the following year; or (c) apply the Residential Common Surplus to the reserve.

Section 14.08. Assessment Certificate. The Residential Association shall, upon demand, at any reasonable time, furnish to any Owner liable for Residential Assessments a certificate in writing signed by an Officer or other authorized agent of the

Residential Association, setting forth the status of said Assessments; i.e., "current", and if not current, "delinquent" and the amount due. Such certificate shall be conclusive evidence of the payment of any Residential Assessment therein stated to have been paid. A reasonable charge to cover labor and materials may be made in advance by the Residential Association for each certificate.

Section 14.09. Books and Records of the Residential Association. The Residential Association shall keep full and correct books of account. The Residential Association shall make available to all Residential Lot Owners and the holders of all first mortgages on Residential Lots, current copies of the books, records and financial statements of the Residential Association upon reasonable request during normal business hours. All funds collected by the Residential Association shall be held and expended solely for the purposes designated by this Declaration and shall be deemed to be held for the use, benefit and account of the Residential Association and all of the Residential Lot Owners. All books and records must be kept in accordance with good accounting procedures and must be reviewed at least once a year by an independent accounting firm.

Section 14.10. Non-Payment of Assessment. Any Residential Assessments levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest and other costs as set out elsewhere in this Declaration, thereupon become a continuing lien upon the Residential Lot which shall bind the Residential Lot in the hands of the then Residential Owner and the Owner's successors and assigns.

If the Residential Assessment is not paid within thirty (30) days after the due date, the Residential Assessment shall bear interest at a reasonable rate of one and one-half percent (1.5%) per month (18% per annum) or at such other reasonable rate set by Residential Association in its minutes, not to exceed the maximum amount allowed by law, and the Residential Association may bring an action at law against the Residential Owner personally obligated to pay the same and/or foreclose the lien against the Residential Lot, in either of which events interest, costs and reasonable attorneys' fees shall be added to the amount of each Residential Assessment. Each such Residential Assessment or charge, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the Owner of such Residential Lot at the time when the Residential Assessment fell due. No Residential Owner may waive or otherwise escape liability for the Residential

Assessments by non-use or waiver of use of the Residential Common Areas or by abandonment of his Residential Lot.

Section 14.11. Priority of Association Lien. The lien provided for in this Article XIV shall take priority over any lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages which have been filed of record before a claim of this lien hereunder has been docketed in the office of the Clerk of Superior Court in Onslow County, and may be foreclosed in the same manner as a mortgage on real property under power of sale in an action brought by the Residential Association in accordance with the Planned Community Act. The Residential Association is entitled to recover its reasonable attorneys' fees and court costs and collection costs, as part of the lien. In any such foreclosure action, the Residential Association shall be entitled to become a purchaser at the foreclosure sale.

Section 14.12. Disputes as to Common Expenses; Adjustments. Any Residential Owner who believes that the portion of Residential Common Expenses chargeable to his Residential Lot, for which an assessment lien has been filed by the Residential Association, has been improperly charged against his or her Residential Lot, may bring action in an appropriate court of law.

Section 14.13. Purchaser at Foreclosure Sale Subject to Declaration, Bylaws, Rules and Regulations of the Association. Any purchaser of a Residential Lot at a foreclosure sale shall automatically become a Member of the Residential Association and shall be subject to all the provisions of this Declaration, the Residential Bylaws and the Residential Rules and Regulations.

Section 14.14. Non-Liability of Foreclosure Sale Purchaser for Past Due Common Expenses. When the holder of a first mortgage or first deed of trust of record or other purchaser of a Residential Lot acquires title to the Residential Lot as a result of foreclosure of the first mortgage first deed of trust or by deed in lieu of foreclosure, such acquirer of title, his, her or its successors and assigns, shall not be solely liable for the share of the Residential Common Expenses or other Residential Assessments by the Residential Association chargeable to such Residential Lot which became due prior to the acquisition of title to the Lot by such acquirer, other than Residential Assessments for which a claim of lien has been docketed with the Onslow County Clerk of Superior Court prior to the recordation of the lien being foreclosed. Such unpaid share of Residential Common Expenses or Residential Assessments shall

be deemed to be Residential Common Expenses collectible from all of the Residential Lots, including that of such acquirer, his, her or its successors or assigns. This provision shall not relieve the party acquiring title or any subsequent Owner of the subject Residential Lot from paying future Residential Assessments.

Section 14.15. Liability for Assessments upon Voluntary Conveyance. In a voluntary conveyance of a Residential Lot, any grantee or his or her first mortgagee shall inform the Residential Board of Directors in writing of such contemplated conveyance and such grantee or first mortgagee shall be entitled to a statement from the Board of Directors of the Residential Association setting forth the amount of all unpaid Residential Assessments (including current Residential Assessments) against the grantor due the Residential Association. Neither the grantee nor the mortgagee shall be personally obligated for any delinquent Residential Assessments, but such delinquent Residential Assessments, along with interest, late charges, costs and reasonable attorney's fees shall be a lien against the Lot in accordance with Section 14.10 and Section 14.11 herein.

Section 14.16. Late Charge. The Residential Association may impose a charge against any Residential Lot Owner who fails to pay any amount assessed by the Residential Association against his Lot within ten (10) days after such Residential Assessments are due and payable and who fails to exercise his rights under this Declaration or under the laws of the State of North Carolina to successfully contest such Residential Assessment. The amount of the late charge shall be the greater of (i) twenty and 00/100 Dollars (\$20.00), or (ii) twenty percent (20%) of the delinquent amount, or such other amount as may be determined by the Residential Association from time to time. Additionally, if a Residential Lot Owner shall be in Default in payment of an installment upon an assessment or of a single monthly assessment, the Residential Association has the right to accelerate all monthly Residential Assessments remaining due in the current fiscal year. The total of such Residential Assessments, together with the delinquent Residential Assessments shall then be due and payable by the Residential Lot Owner no later than ten (10) days after the delivery of written notice of such acceleration to the Residential Lot Owner or twenty (20) days after mailing of such notice to him by certified mail, whichever occurs first. If such acceleration amount is not paid by the due date, the above-described late charge may be imposed on the part of such accelerated amount not paid by the due date.

Section 14.17. Miscellaneous Provisions.

(A) The Residential Association may change the interest rate due on delinquent Residential Assessments (including any late charges), except that the rate cannot be changed more often than once every six (6) months. As of its effective date, the new interest rate will apply to all Residential Assessments then delinquent.

(B) The Residential Owner has the sole responsibility of keeping the Residential Association informed of the Owner's current address if different from the Residential Lot owned. Otherwise notice sent by Residential Association to the Residential Lot or to the address on record with the Onslow County Tax Collector is sufficient for any notice requirement under this Declaration.

(C) The lien under this Article XIV arises automatically, and no notice of lien need be recorded to make the lien effective.

(D) The Residential Assessment lien includes all collection costs, including demand letters, preparation of documents, reasonable attorneys' fees, court costs, filing fees, collection fees, and any other expenses incurred by the Association in enforcing or collecting the Residential Assessment.

(E) Any Residential Assessment otherwise payable in installments shall become immediately due and payable in full without notice upon Default in the payment of any installment. The acceleration shall be at the discretion of the Board.

(F) No Owner of a Residential Lot may exempt himself or herself from liability for his or her contribution toward the Residential Common Expenses by waiver of the use or enjoyment of any of the Residential Common Areas or by the abandonment of his or her Residential Lot.

(G) This Section 14.17 applies to every type of Residential Assessment.

ARTICLE XV RESIDENTIAL EASEMENTS AND ENCUMBRANCES

Section 15.01. Easement for Encroachments. The Dwelling Units, all utility lines, and all other improvements as originally constructed by or on behalf of Residential Declarant or its assigns shall have an easement to encroach upon any setback, Residential Lot or Residential Common Area as a result of the location of the building, utility lines and other improvements across boundary lines between and along Residential Lots and/or the Residential Common Areas, or as a result of building or improvement movement or alterations or additions

from time to time, provided that such alterations or additions have complied with the requirements of this Declaration.

Section 15.02. Residential Lot's Utility Easements. Easements are granted in favor of each Residential Lot Owner to and throughout the Residential Common Areas and, if necessary, the setback areas of any other Residential Lots, as may be necessary for the installation, maintenance, repair and use of underground water, gas, sewer, power and other utilities and services including power and communication, now or hereafter existing, including maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or other components. The foregoing notwithstanding, no Residential Lot Owner (other than Residential Declarant) may exercise the easement rights reserved in this Section 15.02 without the prior written approval of the Residential Board as described in Section 15.06 below and the Residential Declarant, so long as it owns a Residential Lot in the Residential Subdivision.

Section 15.03. Residential Utility Easements. Easements are reserved and/or granted hereby in favor of the Residential Declarant and/or the Residential Association through each Residential Lot (provided that such easements shall not materially and unreasonably interfere with the use of any dwelling located upon any Residential Lot) and the Residential Common Areas for the purpose of installing, laying, maintaining, repairing and replacing any pipes, wires, ducts, conduits, equipment, fixtures, utility, power or communication lines or equipment, or other components throughout the Residential Common Areas. Without limiting any other provision in this Article XV, it is understood that Residential Declarant's easement rights reserved herein may be utilized for the benefit of property within or outside of the Residential Subdivision. Each Residential Lot Owner and/or his respective mortgagee by acceptance of a deed conveying such ownership interest and each mortgagee encumbering such ownership interest, as the case may be, hereby irrevocably appoint Residential Declarant, or the Residential Association, as the case may be, as his attorney in fact, coupled with an interest, and authorize, direct and empower such attorney, at the option of the attorney, to execute, acknowledge and record for and in the name of such Residential Lot Owner and his mortgagee, such easements or other instruments as may be necessary to effect the purpose of this Section 15.03. The easements may be assigned and/or granted by the Residential Declarant and/or the Residential Association to any utility or service company.

Section 15.04. General Easements. An easement is hereby reserved and/or granted in favor of the Residential Declarant and/or the Residential Association in, on, over and through the Residential Common Areas, the Residential Lots and/or Dwelling Units for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, policing, replacing and otherwise dealing with the Residential Common Areas, Residential Lots and/or Dwelling Units, including all improvements thereon as required or permitted by the Constituent Documents or applicable law. An easement is hereby reserved in favor of Residential Declarant over the Residential Common Areas for the purpose of advertising or promoting sales of Residential Lots or Dwelling Units in the Residential Subdivision.

Section 15.05. Access Easement. Appurtenant to each Residential Lot is an easement over any Residential Common Area for necessary pedestrian and vehicular ingress and egress to and from any such Residential Lot over the Residential Common Areas, to and from a thoroughfare. The easement shall be over such walkways, driveways, or other ways as are designated by the Residential Declarant and/or the Residential Association and shall be subject to the terms of the Residential Constituent Documents.

Section 15.06. Use of Easement. Any use of the rights and easements granted and reserved in this Article XV shall be reasonable. If any damage, destruction, or disturbance occurs to a Residential Lot or Residential Common Area as a result of the use of any easement or right, the Lot or Residential Common Area shall be restored by, or at the direction of, the Residential Association promptly in a reasonable manner at the expense of the person or persons making the use of the easement or right that resulted in the damage, destruction or disturbance. Before beginning work, Residential Association may require all or any part of the expected expense to be prepaid by that person or those persons liable for the expense. Additionally, should any Residential Lot Owner other than Declarant elect to exercise its easement rights hereunder, it shall be required to obtain the Residential Board's prior written approval (not to be unreasonably withheld), after providing the Residential Board with detailed plans of its proposed work, as well as evidence of appropriate insurance and other such reasonable information or assurances as the Residential Board may require. No easement may be granted across, through, over, or under any Residential Lot or Residential Common Area, which materially restricts ingress and egress to the Residential Lot or Residential Common Area, unless reasonable alternate ingress and egress is provided or unless

the restrictions is only temporary. All easements reserved hereunder shall be perpetual and non-exclusive.

Section 15.07. Reservation of Access Easement by Residential Declarant. Residential Declarant reserves an easement for itself, its grantees, successor and assigns, to enter upon the Subdivision for access, including ingress and egress for both vehicles and pedestrians, to and from any public street, road, land, walkway or right-of-way. The easement shall be over the streets, sidewalks, bridges and other access ways of the Residential Subdivision. Residential Declarant further reserves the right to connect, at Residential Declarant's expense, to any street, roadway, walkway or other means of access that are located on the Residential Common Areas of the Residential Subdivision. This reservation of access easements and the right of connection should be construed liberally in favor of the Residential Declarant, in order to facilitate the development of all or any portion of the Residential Subdivision.

Section 15.08. Reservation of Construction Easement by Residential Declarant. The Residential Declarant reserves the non-exclusive right and easement to temporarily go upon the Residential Subdivision in order to complete the development of the Residential Subdivision and the construction of the improvements to be located therein, and to develop other neighboring land. The easement shall be construed broadly in favor of the Residential Declarant, including giving Residential Declarant the right to store temporarily construction materials, equipment or dirt. After the construction is finished, Residential Declarant must, at Residential Declarant's cost, repair any damage done to the Residential Subdivision including to any landscaping. As soon as reasonably possible after Declaration has completed construction on the neighboring land, Residential Declarant must remove all debris, equipment, materials and dirt from the Residential Subdivision.

Section 15.09. Roadway Easement. Residential Declarant has reserved for the benefit grants to all Residential Lot Owners the non-exclusive right of ingress and egress on, over and across all public and private roadways (the "Roadways") located on or to be located on a portion of the Residential Subdivision which private roadways extend between one or more publicly dedicated streets. Roadways (other than those (if any) that have been accepted by applicable governmental authorities for maintenance, constitute Residential Common Areas and shall be maintained, insured, and repaired by the Residential Association in accordance with this Declaration. The Declarant hereby reserves the right (but not the obligation), in its sole discretion, to annex additional Roadways into the Residential

Subdivision. Notwithstanding the foregoing to the contrary, no part of the Roadway shall be dedicated or transferred to a unit of local government without acceptance of the unit of local government involved.

Section 15.10. Residential Declarant's Easements: General. The easements and grants reserved for and granted to the Residential Declarant also benefit and bind any heirs, successors and assigns of Declarant and their respective guests, invitees or lessees, including, without limitation, assignees of Residential Declarant who do not own property within the Residential Subdivision.

Section 15.11. Easements to Run with Land. All easements and rights described in this Article XIV are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the Residential Declarant, its successors and assigns, and any Owner, purchaser, mortgagee, and other person or entity now or hereafter having an interest in the Residential Subdivision, or any part or portion of it.

Section 15.12. Reference to Easements and Deeds. Reference in the respective deeds of conveyance or any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees in said instruments as fully and completely as those such easements and rights were recited fully and set forth in their entirety in such instruments.

ARTICLE XVI

RESIDENTIAL DESIGN AND ARCHITECTURAL CONTROL

Section 16.01. Residential Architectural Control Committee. For purposes of this Article XVI, the Residential Declarant shall function as the Residential Architectural Committee (the "Residential Committee") so long as Residential Declarant is a Class B Member of the Residential Association. After the termination of the Residential Declarant's Residential Class B Membership, the Residential Board of Directors of the Association shall appoint the members of the Residential Committee to carry out the functions set forth in this Article.

Section 16.02. Reservations. The Residential Declarant reserves the right to change, alter, or redesignate roads, pedestrian easements, utility and drainage facilities, plus such other present and proposed amenities or facilities as may, in the sole judgment of the Residential Declarant be necessary or desirable.

Section 16.03. Variances. The Committee shall be empowered to allow adjustments of the conditions and restrictions stated herein order to overcome practical difficulties and prevent unnecessary hardships in the application of the regulations contained herein, provided, however, that such is done in conformity to the intent and purposes hereof, and provided, also, that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood. Variances and adjustments of height, size, and setback requirements may be granted hereunder.

Section 16.04. Development Concept. It is the express intention of the Residential Declarant to maintain in this residential community a uniform plan of development that will blend with and not detract from the natural environment with respect to design, type and general appearance of the structures to be erected on the lots. Property owners are encouraged to have their architects contact the Residential Committee prior to any costly design work for concept guidelines pertaining to the residential community.

Section 16.05. Submission & Approval of Plans. The proposed Site and Grading Plans, Building Plans and Specifications, Exterior Colors and Finishes, and Construction Schedule must be approved by the Residential Committee. One (1) copy of all plans and related data shall be furnished to the Residential Committee for its records. Until all of the above listed prerequisite plans are approved no improvements or structures shall be erected, placed, or altered on any residential Lot. The material used, as well as the design, shall be subject to the prior written approval of the Residential Committee. The Residential Declarant or Residential Committee's Architectural Control shall be absolute and in its sole discretion and they may require modifications of plans based on solely aesthetic considerations, or any offsite considerations. Residential Declarant's approval is required for any improvement including, but not limited to location and construction of individual slips, driveways, outbuildings and fences.

The Site and Grading Plans should show the proposed location of each building, structure, driveway, parking area, other improvements, and proposed alterations to the physical characteristics of the site. The grade, elevation, or physical characteristics (including but not limited to slopes and tree growth) of any such Lot shall not be altered in any way whatsoever without prior written approval of the Residential Committee based upon a Site or Grading Plan.

The Residential Committee encourages the planting of flowering shrubs and trees; however, all tree removal or planting of trees, bushes, shrubs, grasses, or other vegetation whatsoever, shall be based upon a Site Plan, Landscaping Plan, or Planting Plan which has been submitted to and received written approval from the Residential Committee.

Upon the written request of a Lot Owner for approval of plans, the Residential Committee shall have thirty (30) days within which to approve or disapprove plans. In the event of failure to approve or disapprove within thirty (30) days, such approval will not be required provided the design of proposed building is in harmony with the existing structures in this area. If the Residential Committee approves the construction of such improvements, it shall issue a certificate evidencing such approval.

Refusal or approval of any such plans or specifications may be based by the Residential Committee upon grounds, including purely aesthetic and environmental considerations that, in the sole and absolute discretion of the Residential Committee, shall seem sufficient.

Without the prior written consent of the Residential Committee, no changes or deviations in or from such plans or specification as approved shall be made. No alterations in the exterior appearance of any building or structure, or in the grade, elevation, or physical characteristics of any Lot shall be made without like approval by the Residential Committee.

Upon completion of approved construction, the Residential Committee shall inspect the construction to insure that the approved Plans and samples were complied with by the Owner. No structure may be occupied or used until the issuance by the Residential Committee of a certificate of compliance. The certificate of compliance shall be issued by the Residential Committee without fee; provided, however, that in the event that the Residential Committee's first inspection of the construction reveals deviations or deficiencies from the approved Plans and samples, the Residential Committee may charge a fee of \$50.00 for every subsequent inspection which is necessary to insure compliance with the approved Plans and samples. Any such fee must be paid before the issuance of the compliance certificate.

If the finished building or other structure does not comply with the submitted plans and specifications, the Residential Committee retains the right to make the necessary changes at Owner's expense, and the further right to file under the North Carolina lien laws notice of liens for any costs incurred.

Section 16.06. Limitation of Liability. Neither Residential Declarant nor the partners, officers, directors, employees and/or agents of declarant shall be liable in damages or otherwise to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with any submittal of plans for review and approval under this Declaration. Without the prior written consent of Residential Declarant, owner who submits or resubmits its plans may bring an action or suit against Residential Declarant, or Residential Declarant's partners, officers, directors, employees and/or agents to recover any such damages, and such parties hereby release, remise, and quit claim all claims, demands and causes of action for damages arising out of or in connection with any mistake of judgment, negligence or nonfeasance of Residential Declarant or its partners, officers, directors, employees and/or agents relating to review and approval, disapproval or failure to respond with respect to any plans which are submitted or resubmitted it under this Declaration; and such parties hereby waive all rights and entitlements they may have under any provision or principled law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

Section 16.07. No Liability for Design or Other Defects. The approval of any plans under this Declaration by Residential Declarant shall not impose any liability or responsibility whatsoever upon Residential Declarant or its partners, officers, directors, employees and/or agents with respect to the following: (i) with respect to the compliance or noncompliance of any such plans, or any structures erected or installed in accordance therewith, with applicable zoning ordinances, building codes, signage ordinances, or other applicable governmental laws, ordinances or regulations; or (ii) with respect to defects in or relating to the plans, including, without limitation, defects relating to engineering matters, structural design matters and the quality or suitability of materials.

ARTICLE XVII RESIDENTIAL USE RESTRICTIONS

Section 17.01. Residential Use. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any Residential Lot other than a detached single family dwelling not to exceed two (2) stories in height. No building or other structure, or part thereof, at any time situated on such Residential Lots shall be used as a professional office, charitable or religious institution, business or manufacturing purpose, or for any use whatsoever

other than residential and dwelling purposes as aforesaid; and no duplex residence or apartment house shall be erected or placed on or allowed to occupy such Residential Lots and no building shall be altered or converted into a duplex residence or apartment unit thereon. Provided, however, that Residential Declarant may use any Residential Lot for extension of a street or roadway if so desired.

Section 17.02. Square Footage of Enclosed Dwelling Area. Every dwelling constructed on a Residential Lot shall contain at least the minimum required square footage of fully enclosed and heated floor area. The minimum required square footage shall be 900 square feet, exclusive of patios, attached garages, terraces, decks, roofed and unroofed porches and accessory buildings.

Section 17.03. Prohibited Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Residential Lot at any time as a residence either temporary or permanently. No trailer, mobile home, camper or like vehicle shall 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. No modular, component, or pre-built home shall be erected or placed on any Lot. "Modular, component, or pre-built homes" are defined as homes or residences that are substantially assembled off site and transported to a property, either as a unit or in sections, for final completion.

Section 17.04. Pre-Construction Maintenance of Lots. Prior to commencement of the erection of any residence on each Residential Lot, the Owner of such Residential Lot, shall from time to time cut, or cause to be cut, and keep cut or cause to be kept cut, all weeds and brush on such Lot and shall remove any resulting debris, to comply with Section 17.05 below. Should such Residential Owner fail to do so the Residential Association may do so, and the reasonable expenses thereof shall be paid by such Owner to the Residential Association within thirty (30) days thereafter as a Residential Individual Assessment in accordance with Section 14.03.

Section 17.05. Preservation of Well-Kept Buildings and Grounds. Each Residential Lot Owner shall prevent any unclean, unsightly or unkempt conditions of any buildings or grounds on his Residential Lot which would tend to substantially decrease the beauty of any of the property or diminish or destroy the enjoyment of other Residential Lots by the Owners thereof. This

restriction includes, but is not limited to, a prohibition against storage on any Residential Lot of anything unclean, unsightly or unkempt.

Section 17.06. Reconstruction. Any building on any Residential Lot which is destroyed in whole or in part by the fire, windstorm, flood or other Act of God must with reasonable promptness be rebuilt or all debris from such destruction removed and the Lot restored to the condition it was in prior to commencement of construction of such building. Any such reconstruction must be commenced within six (6) months from the date of such destruction. All debris must be removed and the Residential Lot restored to its prior condition within three (3) months of such destruction.

Section 17.07. Subdividing. No Residential Lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Residential Association. However, the Residential Association hereby expressly reserves to itself, its successors or assigns, the right to re-plat any two (2) or more Residential Lots shown on the Plat of the Residential Subdivision in order to create a modified building Residential Lot or Lots; and to take such steps as are reasonably necessary to make such re-platted Residential Lot suitable and fit as a building site, said steps to include but not limited to the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of the said re-platted Lots.

Section 17.08. Animals and Pets. No animals, livestock, or poultry of any kind shall be kept or maintained on any Residential Lot or in any Dwelling Unit except that, subject to restrictions contained below and herein, household pets may be kept provided that said pet shall not exceed seventy pounds (70 lbs) in weight and is not kept for breeding or commercial purposes. Any such household pet shall not be allowed off the Residential Lot of the Owner of said pet unless said pet is attended and on a leash. Residential Owners shall be solely and absolutely liable for the acts of any pet kept on their Residential Lot. The Residential Owner is required to pick up, remove and dispose of all solid wastes of their pet in an Association approved container and in such manner as directed by the Association. No pet may be "staked", housed, tied up or otherwise left in any Residential Lot or Residential Common Area.

Notwithstanding anything contained in this Declaration to the contrary, the following dog breeds shall be specifically prohibited: Rottweiler, Doberman, Mastiff, Bulldog, Pit-bull, Chow, and Wolf Hybrids. In addition, the Association shall

specifically have the power and responsibility to designate, based upon temperament, size, and/or nature or tendencies, from time to time, a list of breeds of animals which shall be prohibited on any Lot.

Furthermore, notwithstanding anything contained in this Declaration to the contrary, any Inherently Dangerous Animal shall be prohibited. "Inherently Dangerous Animal" shall mean any non-domesticated animal for which evidence demonstrates that unprotected human contact with the species can result in a life threatening injury or disease to those who come into contact directly or indirectly. The following are examples of Inherently Dangerous Animals, but shall not be deemed an exclusive listing: Bats, wolves, wolf hybrids, lions, tigers, cheetahs, jaguars, cougars, leopards, snow leopards, clouded leopards, all hyena species, all bear species, all apes, Old and New World monkeys and prosimians, all elephant species, rhinoceros, hippopotamuses, gaur, banteng, kouprey, anoa, Cape buffalo, all crocodilian species, all helodermatidae species, green anaconda, amethystine python, African rock python, reticulated python, and all venomous snakes.

Section 17.09. Exterior Antennae, Satellite Dishes and Aerials. Exterior radio and television aerials and satellite dishes for reception of commercial broadcasts shall not be permitted in the Residential Subdivision without prior written permission of the Residential Association, or assigns, as to design, appearance and location; and no other aerials or satellite dishes (for example, without limitation, amateur short wave or ship to shore) shall be permitted in the Residential Subdivision.

Section 17.10. Signs and Flags.

(A) Signs. No permanent sign of any character shall be displayed upon any part of the Residential Property except a sign bearing the name of the Residential Lot Owner and/or the street address without permission of the Residential Association. Said signs shall not exceed the dimensions of five inches by twenty inches (5" x 20").

All temporary signs such as builders' signs, realty signs, etc., shall be approved by the Residential Association. These signs should be placed in the center of the Lot, outside the street right of way. Under no circumstances may signs be nailed to trees or placed in the Residential Common Areas.

All political signs are restricted as follows:

(1) Must be displayed indoors or outdoors on individual Residential Lots only;

(2) Are limited to three (3) in number;

(3) May have maximum dimensions of twenty-four inches by twenty-four inches (24" x 24"); and

(4) Are prohibited no earlier than forty-five (45) days before the day of the election and no later than seven (7) days after an election.

(5) All signs must be clean, neat, and maintained in good repair.

(B) Flags. No flag other than the United States Flag or the State of North Carolina Flag shall be displayed upon any part of the Residential Property without permission of the Residential Association. Any United States Flag or the State of North Carolina Flag displayed shall be: (i) not greater than four feet by six feet (4' x 6') in dimension, (ii) displayed in accordance with or in manner consistent with the customs set forth in 4 U.S.C. §§ 5-10, as amended, and (iii) displayed only on individual Residential Lots, not in Residential Common Areas, easements, and/or rights-of-ways.

Section 17.11. Obstruction of Common Areas. There shall be no storage or parking of any items, including baby carriages, playpens, bicycles, wagons, toys, vehicles, benches or chairs in any part of the Residential Common Areas, except as permitted by the Residential Rules and Regulations. Patios porches (except screened in and/or enclosed porches) and decks, may be used only for their intended purposes.

Section 17.12. Leasing. No building on any Residential Lot may be leased except in accordance with Rules and Regulations promulgated by the Residential Association.

Section 17.13. Internal Ownership. No Owner may lease, deed, sell, convey, or otherwise transfer his Residential Lot under any time-sharing or interval ownership arrangement.

Section 17.14. Hazardous Activities. Nothing shall be done or kept on any Residential Lot or in the Residential Common Area which shall increase the rate of insurance on the Residential Common Area or any other Residential Lot without the prior written consent of the Residential Board of Directors. No Owner shall permit anything to be done or kept on his Residential Lot or in the Residential Common Area which would result in the cancellation of insurance on any part of the Residential Common Area, or which would be in violation of any law.

Section 17.15. Sight Distances at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two feet (2') and six feet (6') above the

roadways shall be placed or permitted to remain on any corner Residential Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet (25') 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 line limitations shall apply on any Residential Lot within ten feet (10') 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 intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 17.16. Nuisances. No noxious, offensive, or illegal activity shall be carried out on or conducted upon any Residential Lot nor shall anything be done on any Residential Lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood.

Section 17.17. Vehicles, Boats, Etc. No vehicle without a current inspection sticker, vehicle with a Gross Vehicle Weight (GVW) of over 5,000 lbs. empty, camper trailer, motor home, or bus shall be parked overnight on any Residential Lot except in an enclosed garage; provided however, guests of an Owner may park such vehicle for a period not to exceed seven (7) days each calendar year. A pleasure boat on its trailer may be parked only on that part of any Residential Lot away from the street lying beyond the front line of the Lot so as not to be generally visible from adjoining Residential Lots, easements or Residential Common Areas. 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.

Section 17.18. Screening of Refuse Receptacles. Each Residential Lot Owner shall provide receptacles for ashes, trash, rubbish, or garbage on his Residential Lot in a screened area not generally visible from the road, other Residential Lots, or from common easement areas; or provide underground receptacles (or similar facility) in accordance with reasonable standards established by the Residential Association.

Section 17.19. Mailboxes and Newspaper Receptacles. No mail box, paper box, or other receptacle of any purpose shall be erected or located in the road right of way or on any Residential Lot. Mailboxes will be constructed at a central location within the Residential Common Area by the Declarant with each Residential Lot receiving one (1) mail receptacle.

Section 17.20. Fuel Tanks and Similar Storage Receptacles. No fuel tanks or similar storage receptacles shall be exposed to

view. Any such receptacles way be installed only within an accessory building with a screened area (so as not to be generally visible from the road, adjoining Residential Lots, or Residential Common Areas) or buried underground; provided, however, that nothing contained herein shall prevent the Residential Association from erecting, placing or permitting the placing of tanks, or other apparatus, on the property for uses related to the provision of utility or other service.

Section 17.21. Clothesline or Drying Yards. Clotheslines or drying yards are not permitted on any Residential Lot or in the Residential Common Areas.

Section 17.22. Fences and Walls. No fence, bulkhead, or wall of any purpose shall be erected or located on any Residential Lot, easement, or Residential Common Area unless and until the plans and specifications showing the nature, shape, height, materials, and location for said fence or wall shall have been approved by the Residential Association. The term "fence" shall include, but not be limited to, a wall, fence, landscaping, berm, or hedge which acts as a fence or privacy or security-inducing structure.

Section 17.23. Swimming Pools. Outdoor swimming pools, hot tubs, Jacuzzis, and other similar facilities may be located in the rear of a Residential Lot only after Residential Association approval, and shall be screened and fenced so as not to be generally visible from adjoining Residential Lots, easements or Residential Common Areas. All such improvements shall be subject to approval and compliance with all governmental laws and regulations.

Section 17.24. Exterior Lights. All light bulbs or other lights installed in any fixture located on the exterior of any Dwelling Unit, building or other structure located on any Residential Lot shall be clear or white lights or bulbs. No mercury vapor or similar wide area lighting shall be allowed without prior Residential Association approval.

Section 17.25. Driveway Locations. The Residential Declarant or Residential Association has the right to decide in its sole and absolute discretion the precise site and location of any driveway location placed upon any right-of-way; provided, however, that the Residential Owner shall be given the opportunity to recommend a specific site for such improvements.

Section 17.26. Street Lighting Agreement. The Residential Declarant reserves the right to subject the Property in this Residential Subdivision 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 which

may require an initial payment and/or a continuing monthly payment to an electric utility company by the Owner of each Residential Lot.

Section 17.27. Impairment of Structural Integrity of Building. Nothing shall be done in any Dwelling Unit, or on any Residential Lot, or in, on or to the Residential Common Areas which will impair the structural integrity of any building or which, absent the prior written approval of the Residential Board, would structurally change any building.

Section 17.28. Laundry or Rubbish and Open Fires in Common Areas and Facilities. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Residential Common Areas or on any Residential Lot. The Residential Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials. All trash, garbage or other rubbish shall be deposited only in covered sanitary containers as provided in Section 15.30 below. No open fires shall be permitted on any part of the Residential Subdivision other than fires in charcoal grills or other similar cooking devices located upon Residential Lots provided the use of such devices does not violate any local governmental rules or regulations.

Section 17.29. Alteration of Common Areas. Nothing shall be altered or constructed in or removed from the Residential Common Areas except as otherwise provided in this Declaration and except upon the written consent of the Association. In addition, a Residential Lot Owner must obtain the prior written consent of the Residential Board prior to installing and landscaping or planting any flowers, herbs or vegetables, on any portion of the Residential Subdivision (including any Residential Lot).

Section 17.30. Trash Disposal. Each Residential Lot Owner shall deposit all trash, garbage, or other rubbish by as directed and instructed by the Board. Residential Lot Owners shall keep trash containers at all times in each Residential Lot Owner's garage (if applicable), or in such other location as designated by the Residential Board, except on the days which trash, garbage, or other rubbish is collected by the local waste removal authorities. Any trash containers placed outside by the Residential Lot Owners in the location designated for collection by the local waste removal authorities shall only remain in such location for a period not to exceed twenty-four (24) hours. The Residential Board shall have the right to dispose of any trash, garbage, or other rubbish of a Residential Lot Owner in violation of this Article VXi, and may assess the Residential

Lot Owner for the cost of such removal, which amount shall be payable on the date the next installment of the Residential Regular Assessment is due.

ARTICLE XVIII
RESIDENTIAL STORMWATER MANAGEMENT

Section 18.01. Residential Stormwater Permits. All Residential Lots are subject to the State of North Carolina rules and regulations concerning stormwater runoff as these rules and regulations may be amended from time to time. Without limiting the foregoing, Residential Declarant or its designee, including the Residential Architectural Control Committee, reserves the right to impose additional restrictions upon the Residential Property as and to the extent required by the terms of any stormwater permit applicable to the Residential Property or any portion thereof issued by the State of North Carolina. Such additional restrictions may be imposed by Declarant by the recording of a Supplemental Declaration, and no joinder or consent of the Residential Association or any other Residential Lot Owner or person shall be required for such Supplemental Declaration.

No party shall apply for or obtain any stormwater permit applicable to any portion of the Residential Property without the prior written consent of Residential Declarant (which may be granted or withheld in Residential Declarant's sole and absolute discretion). Except in the specific event of Residential Declarant's consent (if applicable) in accordance with the foregoing sentence, it is the intent of the Residential Declarant and this Declaration that all such permits are to be in the name of Residential Declarant until such time as Residential Declarant elects to assign them to the Residential Association as provided herein. Residential Declarant reserves the right to transfer the stormwater management permit(s) and the responsibility for maintenance of the stormwater runoff system and facility to the Residential Association without the need for agreement or consent by the Residential Association. At the time of such transfer, the Residential Association shall accept conveyance and transfer of the stormwater permit(s) and carry out and abide by the duties and obligations contained therein.

Section 18.02. Site Coverage and Stormwater Runoff Rules.

(A) The following restrictions set forth in this Section 16.02(a) are intended to insure continued compliance with State Stormwater Management Permit Number SW8 120811, as amended, as issued by the Division of Water Quality, under NCAC 2H.1000 and any subsequently issued permits or modifications thereof:

(1) The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Residential Stormwater Management Permit

(2) These covenants are to run with the land and be binding on all persons and parties claiming under them

(3) The covenants set forth in this Article XVI pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality, or its successor agency

(4) Alteration of the drainage as provided in the Residential Stormwater Management Permit may not take place without the concurrence of the Division of Water Quality, or its successor agency

(5) The maximum allowable built-upon area ("BUA") per Residential Lot, in square feet, is as listed below:

<u>LOT</u>	<u>BUA (ft²)</u>
1	3,600
2	3,600
3	3,600
4	3,600
5	3,600
6	3,600
7	3,600
8	3,600
9	3,600
10	3,600
11	3,600
12	2,500
13	2,500
14	4,700
15	4,700
16	4,700
17	4,700
18	4,700

19	3,600
20	3,600
21	3,600
22	3,600
23	3,600
24	3,600
25	2,500
26	2,500
27	4,700
28	4,700
29	4,700
30	4,700
31	4,700
32	4,700
33	4,700
34	4,700
35	4,700
36	4,700
37	4,700
38	2,500
39	2,500
40	4,700
41	4,700
42	4,700
43	4,700

(6) These allotted amounts include any built-upon area constructed within the Residential Property boundaries and that portion of the right-of-way between the front Lot lines and the edge of the pavement. Built-upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

(7) All runoff from the built-upon areas on a Residential Lot must drain into the permitted stormwater system. This may be accomplished through a variety of means including roof drain gutters, which drain to the street, grading the Residential Lot to drain toward the street, or grading perimeter swales to collect the Lot runoff and directing it into the street or into a component of the stormwater system that ultimately drains into the stormwater system. Residential Lots that will naturally drain into the stormwater system are not required to provide these additional measures.

(8) Residential Declarant reserves the right in its sole discretion as the Residential Stormwater Management Permit may be modified to recalculate and redesignate maximum built-upon areas as set forth above, provided such recalculations and redesignations are in accordance with the Residential Stormwater Management Permit applicable to the Residential Property (including, without limitation, the imposition of rules or restrictions that Division of Water Quality may require in connection with the annexation of additional property into the scheme of this Declaration). In addition, if any Residential Lot or Dwelling Unit as finally constructed does not use its allocated built-upon area, Residential Declarant shall have the sole right to reclaim such excess allotment and reallocate it to other Lots in its sole discretion.

ARTICLE XIX

NON-DEDICATED RESIDENTIAL STREETS

Section 19.01. Use. All non-dedicated streets constructed within the Residential Subdivision are reserved as easements of public access for the common use of Residential Owners and their families, guests and invitees, by commercial vehicles authorized to make pick-ups and deliveries, by public and private utilities' personnel, trucks and equipment, by postal authorities and mail carriers, by emergency personnel and vehicles such as police, fire and ambulance, and by such other persons or classes of persons authorized by the Board of Directors of the Residential Association, as a means of ingress or egress, and for such other uses as may be authorized from time to time by said Residential Board. Such non-dedicated streets may also include underground utility lines, mains, sewers or other facilities to transmit and carry sanitary sewerage and storm water drainage. Except as provided by this Declaration, no acts shall be taken or things done by a Residential Owner or the Residential Association which are

inconsistent with the reservation and grant of use and enjoyment hereinabove provided.

Section 19.02. Maintenance, Reconstruction or Resurfacing. The Residential Association, at the cost and expense of the Residential Association, shall provide snow removal from, maintenance to and resurfacing or reconstruction of any non-dedicated streets or any storm water drainage facilities included as a part thereof or installed thereunder as it deems necessary or appropriate from time to time within its sole discretion.

ARTICLE XX
RESIDENTIAL ASSOCIATION INSURANCE

Section 20.01. General Insurance. The Residential Association shall carry a master policy of fire and extended coverage, vandalism, malicious mischief and liability insurance, and if required by law, workmen's compensation insurance with respect to the Subdivision and the Residential Association's administration thereof in accordance with the following provisions:

(A) The Residential Association shall purchase a master policy for the benefit of the Residential Association, the Residential Lot Owners and their mortgagees as their interest may appear, subject to the provisions of this Declaration and the Residential Bylaws. The "master policy" may be made up of several different policies purchased from different agencies and issued by different companies.

(B) All Residential Common Areas now or at any time hereafter constituting a part of the Residential Subdivision shall be insured against fire and other perils covered by a standard extended coverage endorsement, in an amount not less than one hundred (100%) percent of the replacement value thereof, with a deductible agreed to by the Residential Board of Directors, exclusive of the cost of the land, foundations, footings, excavation, and architect's fees, without deduction for depreciation. The policy shall have cost of demolition, water damage (excluding floods, backing up of sewers and drains, the running off of surface water, and the overflow of a body of water), and agreed amount endorsements and a deductible on any single loss or group of losses within one year in such amounts as shall be found reasonable by the Residential Board of Directors, after carefully considering and comparing the increased premium costs resulting from a low deductible with the lower premium costs but higher per loss risk resulting from a high deductible, together with all other pertinent factors. The policy providing such coverage shall provide that no mortgagee

shall have any right to apply the proceeds thereof to the reduction of any mortgage debt. Such policy shall provide coverage for built-in fixtures and equipment in an amount not less than one hundred percent (100%) of the replacement cost thereof (subject to the deductible provisions described above) and shall also provide that the insurer shall have no right to contribution from any insurance which may be purchased by any Lot Owner as hereinafter permitted. Such policy shall also contain either a waiver by the insurer of any increased hazard clause, a severability of interest endorsement, or a provision stating that the coverage will not be affected by the act, omission or neglect of any person unless such act, omission or neglect is within the knowledge and control of the Association prior to the occurrence of the loss. Such policy shall not provide coverage for any items of personal property owned by any Residential Lot Owner.

(C) Such master policy of insurance shall contain provisions requiring the issuance of certificates of coverage and the issuance of written notice to the Residential Association and to any mortgagee or mortgagees of any Residential Lot Owner not less than thirty (30) days prior to any expiration, substantial modification or cancellation of such coverage.

(D) Such insurance by the Residential Association shall not prevent an Owner of a Residential Lot to obtain insurance on its own property, but no Residential Lot Owner may at any time purchase individual policies of insurance covering any item which the Residential Association is required to insure. If any Residential Lot Owner does purchase such a policy, he or she shall be liable to the Residential Association for any damages, expenses or losses which it suffers or incurs as a result thereof, and the Residential Association shall have the same lien rights provided by Article XIV hereof for Residential Common Expense payments with respect to any such damages, expenses or losses not paid to it by such Residential Owner.

(E) The Residential Board of Directors shall review the insurance coverage required under this Section 20.01 at least annually, and if any of such insurance coverage becomes impossible or impractical to obtain, the Residential Association shall obtain coverage that most closely approximates the required coverage with the deductible provisions as determined by the Residential Board of Directors. In any event, all such insurance must comply, at a minimum, with the applicable requirements set forth in the North Carolina Planned Community Act.

(F) If the required insurance coverage under this Section 20.01 ceases to exist for any reason whatsoever, any mortgagee of any portion of the Residential Subdivision may remedy that lack of insurance by purchasing policies to supply that insurance coverage. The funds so advanced shall be deemed to have been loaned to the Residential Association; shall bear interest at a per annum rate two percent (2%) higher than the basic interest rate in any note secured by the mortgagee's mortgage against a portion of the Residential Subdivision; and shall be due and payable to the mortgagee by the Association immediately. The repayment of this obligation shall be secured by a Residential Special Assessment against all Residential Lot Owners under Article XIV of this Declaration and shall not require a vote of the Members of the Residential Association, anything to the contrary in this Declaration notwithstanding.

(G) The Residential Association shall also maintain liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Residential Common Areas. The Residential Association shall try to have its liability insurance contain cross-liability endorsements or appropriate provisions to cover liability of the Residential Lot Owners, individually and as a group (arising out of their ownership interest in the Residential Common Areas), to another Residential Lot Owner.

Section 20.02. Fidelity Insurance. The Residential Association may elect to have fidelity coverage against dishonest acts on the part of Officers and employees, Members of the Residential Association, members of the Residential Board, trustees, employees or volunteers responsible for the handling of funds collected and held for the benefit of the Residential Lot Owners. The fidelity bond or insurance must name the Residential Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than the insured's total Residential Regular Assessment, plus all accumulated reserves and all other funds held by the Residential Association either in its own name or for the benefit of the Residential Lot Owners.

Section 20.03. Directors' and Officers' Errors and Omissions Insurance. The Residential Association may elect to purchase insurance to protect itself and to indemnify any Residential Director or Officer, past or present against expenses actually and reasonably incurred by him/her in connection with the defense of any action, suit or proceeding, civil or criminal, in which he is made a party by reason of being or having been such

Director or Officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty to the Residential Association; or to obtain such fuller protection and indemnification for Directors and Officers as the law of North Carolina permits. The policy or policies shall be in an amount to be reasonably determined by the Residential Association.

Section 20.04. Premiums. All premiums upon insurance purchased by the Association shall be Residential Common Expenses. Notwithstanding the foregoing, the Residential Lot Owners may be responsible for certain deductibles to the insurance policies purchased by the Residential Association as outlined in Section 20.01 and Section 20.07 herein.

Section 20.05. Proceeds. Proceeds of all insurance policies owned by the Residential Association shall be received by the Association for the use of the Residential Lot Owners and their mortgagees as their interest may appear; provided, however, the proceeds of any insurance received by the Residential Association because of property damage shall be applied to repair and reconstruction of the damaged property, except as may otherwise be permitted by this Declaration.

Section 20.06. Power of Attorney. Each Residential Lot Owner shall be deemed to appoint the Residential Association as his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of the master policy or any other insurance policy obtained by the Residential Association. Without limitation on the generality of the foregoing, the Residential Association as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefor, to collect proceeds and to distribute the same to the Residential Association, the Residential Lot Owners and their respective mortgagees as their interest may appear, to execute releases of liability and to execute all documents and to do all things on behalf of such Residential Lot Owners and the Residential Subdivision as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Residential Association in regard to such matters.

Section 20.07. Responsibility of Residential Lot Owner. The Residential Association shall not be responsible for procurement or maintenance of any insurance covering any Residential Lot or Dwelling Unit, or the contents of and Residential Lot or Dwelling Unit nor the liability of any Residential Lot Owner for injuries not caused by or connected with the Residential

Association's operation, maintenance or use of the Residential Common Areas or other property located in the Residential Subdivision. Each Residential Lot Owner shall, at his or her own expense, obtain public liability insurance for personal injuries or damage arising out of the use and occupancy of or occurring within his Residential Lot or Dwelling Unit. In addition, each Residential Lot Owner shall maintain fire and extended coverage insurance on his Dwelling Unit, and the contents of his Dwelling Unit. The Residential Association may request the Residential Lot Owner to provide a copy of the policy(s) to the Residential Association evidencing this insurance coverage at any time.

Each Residential Lot Owner agrees that if any Owner(s) damages a building or other improvements now or at any time hereafter constituting a part of the Residential Common Areas of the Residential Subdivision which is covered under the Residential Association's insurance policy, the Owner or Owners causing such damage shall be responsible for paying the lesser of: (a) the insurance deductible due under the Residential Association's insurance policy; or (b) the cost to repair and/or replace any damage to a building or other improvements, which amount shall be due within ten (10) days after the delivery of written notice of such deductible due or replacement/repair costs by the responsible Residential Lot Owner(s) or twenty (20) days after mailing of such notice by certified mail, whichever occurs first. In the event a Residential Lot Owner refuses or fails to pay the insurance deductible or replacement/repair costs in the time period provided in the preceding sentence, the amount thereof may be advanced by the Residential Association and the amount so advanced by the Residential Association shall be assessed to such Residential Owner as an Residential Individual Assessment, which shall be due and payable following seven (7) days written notice.

Section 20.08. Release. All policies purchased under this Article XX by either the Residential Association or the individual Residential Lot Owners shall provide for the release by the issuer, thereof, of any and all rights of subrogation or assignment and all causes and rights of recovery against any Residential Lot Owners, member of their family, their employees, their tenants, servants, agents and guests, the Association, any employee of the Residential Association, the Residential Board, or any occupant of a Dwelling Unit in the Residential Subdivision, for recovery against any one of them for any loss occurring to the insured property resulting from any of the perils insured against under the insurance policy.

Section 20.09. Approximate Coverage. If any of the required insurance coverage under this Article XX becomes or is impossible to obtain or can be obtained only at an unreasonable cost, the Residential Association shall obtain coverage which most closely approximates the required coverage, if such substitute insurance is available.

Section 20.10. Additional Policy Requirements. All such insurance coverage obtained by the Residential Association shall be written in the name of the Residential Association, for the use and benefit of the Residential Association, the Residential Lot Owners and their mortgagees, as further identified below. Such insurance shall be governed by the provisions hereinafter set forth:

(A) Exclusive authority to adjust losses under policies in force on the Subdivision obtained by the Residential Association shall be vested in the Residential Association provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto

(B) In no event shall the insurance coverage obtained by the Residential Association hereunder be brought into contribution with insurance purchased by individual Residential Owners, occupants, or their mortgagees, and the insurance carried by the Residential Association shall be primary.

(C) All casualty insurance policies shall have an agreed amount endorsement with an annual review by one or more qualified persons

(D) The Residential Association shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(1) a waiver of subrogation as discussed in Section 20.08;

(2) that no policy may be canceled, invalidated, or suspended on account of the acts of any one or more individual Residential Owners;

(3) that no policy may be canceled, invalidated or suspended on account of the conduct of any Director, officer or employee of the Residential Association or its duly authorized manager without prior demand in writing delivered to the Residential Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Residential Association, its manager, any Residential Owner or mortgagee; and

(4) that any "other insurance" clause in any policy exclude individual Residential Owner's policies from consideration.

ARTICLE XXI
MORTGAGEE'S RIGHTS

Section 21.01. Notice of Rights of Mortgagee of a Lot. A Mortgagee of any Lot within the Properties shall be entitled to receive written notification of any default, not cured within sixty (60) days after its occurrence, by the Owner of the Lot with respect to any obligation of the Owner under the Declaration, the Bylaws of the Associations or the Articles of Incorporation of the Associations. Any Mortgagee of a Lot can make the request for notification. The notification shall be sent not later than the 65th day after the occurrence of an uncured Default.

Section 21.02. Rights of First Refusal. Any right of first refusal now or hereafter contained in this Declaration or any amendment or modification hereto or otherwise arising in favor of the Associations or certain Owners shall not apply to or preclude or impair in any way the right of the first Mortgagee to: (i) foreclose or take title to the Lot pursuant to the remedies provided in its mortgage; (ii) accept a deed or assignment in lieu of foreclosure in the event of a default under the Mortgage; or (iii) sell or lease a Lot acquired by the Mortgagee.

Section 21.03. Rights of Mortgagee. Unless at least seventy five percent (75%) of the Mortgagees (based upon one vote for each first mortgage or deed of trust owned), and a vote of seventy-five percent (75%) of the votes allocated to the Members entitled to vote hereunder, the Associations shall not:

(A) By an act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Subdivisions or Common Areas or improvements located thereon which are owned directly or indirectly by the Associations for the benefit of the Lots (the granting of easements for public utilities or for other purposes consistent with the intended use of the Subdivisions, or the conveyance of Common Areas to a local governmental authority for public purposes or the conveyance or dedication of streets shall not be deemed a transfer within the meaning of this clause);

(B) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot;

(C) By act or omission change, waive or abandon any scheme of regulation or enforcement thereof pertaining to the architectural design or exterior appearance of Improvements or Dwelling Units, the exterior maintenance of Improvements or Dwelling Units, the maintenance of common fences or driveways or the upkeep of lawns and plantings in the Subdivisions;

(D) Fail to maintain fire and extended coverage insurance on insurable Common Areas on current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost); or

(E) Use hazard insurance proceeds for losses to any Common Areas for other than the repair, replacement or reconstruction of such Common Areas.

Section 21.04. Right to Examine Books and Records. Mortgagees, their successors or assigns, shall have the right to examine the books and records of the Associations.

Section 21.05. Taxes and Insurance. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Lot and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Lot, and first mortgagees making such payments shall be owed immediate reimbursement therefor from a Lot Owner.

Section 21.06. Insurance Proceeds and Condemnation Awards. No provision of this Declaration or any other document or instrument affecting the title to the Properties, Common Areas, any Lot or the organization or operation of the Associations shall give an Owner or any other party priority over any rights of first mortgagees of Lots within the Subdivisions pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Common Areas.

ARTICLE XXII CONDEMNATION

Section 22.01. Partial Taking Without Direct Effect on Lots. If part of the Properties shall be taken or condemned by any authority having the power of eminent domain, such that no Lot is taken, all compensation and damages for and on account of the taking of the Common Areas, exclusive of compensation for consequential damages to certain affected Lots, shall be paid to the Board of Directors of the applicable Association in trust for all Owners and their mortgagees according to the loss or damages to their respective interests in such common area. The Associations, acting through their Board of Directors, shall

have the right to act on behalf of the Owners with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the Common Areas, without limitation on the right of the Owners to represent their own interests. Such proceeds shall be used to restore the Common Areas with the excess, if any, paid to the Owners whose Lots are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots, or personal improvements therein, exclusive of damages relating to Common Areas. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Lots without such allocation, the award shall be divided between affected Owners and the applicable Board of Directors as their interest may appear by arbitration in accordance with the rules set in the Uniform Arbitration Act, Article 45A in Chapter 1 of the North Carolina General Statutes, as it may be amended from time to time.

Section 22.02. Partial or Total Taking Directly Affecting Lots. If part or all of the Properties shall be taken or condemned by any authority having the power of eminent domain, such that any Lot or a part thereof (including specific easements assigned to any Lot) is taken, the Associations shall have the right to act on behalf of the Owners with respect to Common Areas as provided in Section 23.01 of this Article XXIII and the proceeds shall be payable as outlined therein. The Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Lots. All compensation and damages for and on account of the taking of any one or more of the Lots, or personal improvements therein, shall be paid to the Owners of the affected Lots and their mortgagees, as their interests may appear.

Section 22.03. Notice to Mortgagee. A notice of any eminent domain or condemnation proceeding shall be sent to holders of all first mortgages.

ARTICLE XXIII ENFORCEMENT

Section 23.01. Enforcement. The Associations or any Lot Owner may enforce these covenants, conditions and restrictions. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate ("Violating Party") any covenant, condition or restriction, either to

restrain or enjoin violation or to recover damages, and against the land to enforce any lien created by these covenants. In addition to all other amounts due on account of said violation or attempted violation, the Violating Party shall be liable to the parties enforcing the covenants and/or restrictions of this Declaration (the "Enforcing Parties") for all reasonable attorney's fees and court costs incurred by the Enforcing Parties. Failure or forbearance by the Associations or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any lawsuit filed to enforce this Declaration by injunction or restraint, there shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any of the within covenants, conditions or restrictions cannot be adequately remedied by action at law or by recovery of damages. In addition to all other remedies of the Associations, the Associations shall have the right to assess a maximum fine of \$150.00 per day (or such higher amount as may be allowed by law) per violation against any Owner who violates any provision of this Declaration or the Articles, Bylaws or Rules and Regulations of the Associations after such Owner has been given notice of the violation and an opportunity to be heard with respect to the violation in accordance with such policies and procedures as may be adopted from time to time by the Boards of Directors or as may be set forth in the Bylaws. In addition to the above rights, the Associations may also enter upon a Lot or any land upon which a violation exists to remove any violation, perform maintenance or make repairs thereon which is the responsibility of a Lot Owner who has failed to remove said violation or to perform such maintenance or make such repairs (i) after having given such Owner at least ten (10) days prior notice, or (ii) without giving notice in the event of an emergency. Any action brought by the Associations hereunder may be brought in its own name, in the name of its Board or in the name of its managing agent. In any case of flagrant or repeated violation by a Lot Owner, he or she may be required by the Association to give sufficient surety or sureties for his or her future compliance with the covenants, conditions and restrictions contained in this Declaration, the Bylaws and the Rules and Regulations of the Associations.

ARTICLE XXIV GENERAL PROVISIONS

Section 24.01. Severability. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order

shall in no way affect any other provisions, which shall remain in full force and effect.

Section 24.02. Restrictions Run With Land. The easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Associations, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns.

Section 24.03. Commercial Amendment. The Commercial Association (or the Commercial Declarant controlling the Association until the expiration of the Commercial Development Period), as long as consistent with the design, scheme and purposes of this Declaration, by the affirmative vote or written agreement of the Owners to whom not less than fifty-one percent (51%) of all of the votes in the Commercial Association, may amend the following provisions of this Declaration: Articles III through XI, inclusive. Any amendment must be recorded in the Onslow County Registry. Following the end of the Commercial Development Period, no such amendment, in whole or in part, shall be effective unless written notice of the proposed amendment is sent to every Commercial Member at least thirty (30) days in advance of any action taken, and no such amendment shall be effective with respect to any permanent easements or other permanent rights or interests relating to the Commercial Common Areas herein created (unless such amendment is consented to in writing by Commercial Declarant and all other beneficiaries of such permanent easements, rights of interests).

Section 24.04. Residential Amendment. The Residential Association (or the Residential Declarant controlling the Association until the expiration of the Residential Development Period), as long as consistent with the design, scheme and purposes of this Declaration, by the affirmative vote or written agreement of the Owners to whom not less than sixty-seven percent (67%) of all of the votes in the Association, may amend the following provisions of this Declaration: Articles XII through XX, inclusive. Any amendment must be recorded in the Onslow County Registry. Following the end of the Residential Development Period, no such amendment, in whole or in part, shall be effective unless written notice of the proposed amendment is sent to every Commercial Member at least thirty (30) days in advance of any action taken, and no such amendment shall be effective with respect to any permanent easements or other permanent rights or interests relating to the Commercial Common Areas herein created (unless such amendment is consented

to in writing by Residential Declarant and all other beneficiaries of such permanent easements, rights of interests).

Section 24.05. Other Amendments. The Associations, working jointly, and as long as consistent with the design, scheme and purposes of this Declaration, by the affirmative vote or written agreement of the Owners to whom not less than fifty-one percent (51%) of all of the aggregate votes in both Associations combined, may amend the following Articles of this Declaration: Articles I, II, XXI, XXII, XXIII and XXIV. Any amendment must be recorded in the Onslow County Registry.

Section 24.06. Reservation of Special Declarant Rights. Declarants reserve the right to maintain sales and management offices, model units, construction trailers, storage or staging areas, and advertising signs upon Lots or the Common Areas and upon Lots owned by it until the expiration of the Development Periods and to exercise all other "Special Declarant Rights" as defined in the Planned Community Act. Without limiting the foregoing, and notwithstanding anything herein to the contrary, during the applicable Development Period, Declarants shall have the right to annex additional Lots or Common Areas into the Subdivisions by filing a supplement to this Declaration in the Onslow County Registry together with an amendment to the applicable Plat. Such additional Lots or Common Areas need not be contiguous to the Properties. Declarants shall have the right to assign all or a portion of any rights or easements reserved herein by a written assignment thereof, recorded in the Onslow County Registry.

Section 24.07. Captions and Titles. All captions, titles or headings in this Declaration are for the purpose of reference and convenience only and are not deemed to limit, modify or otherwise affect any of the provisions hereof, or to be used in determining the intent or context thereof.

Section 24.08. Defined Terms. Capitalized terms used in this Declaration shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.

Section 24.09. Pronouns. Wherever appropriate in this Declaration, personal pronouns shall be deemed to include the other genders and the singular to include the plural.

Section 24.10. Notices. Except as otherwise provided in this Declaration, any notice to any Owner under this Declaration shall be in writing, shall be effective on the earlier of (i)

the date when received by such Owner, or (ii) the date which is three days after mailing (postage prepaid) to the last address of such Owner set forth in the books of the Associations. The address of an Owner shall be at his Lot (or any of them if more than one) unless otherwise specified in writing to the Association. The Articles and Bylaws shall specify the permissible manner of giving notice for voting and all other Association matters for which the manner of giving notice is not prescribed in this Declaration.

Section 24.11. Governing Law. This Declaration shall be deemed to be made under, and shall be construed in accordance with and shall be governed by, the laws of the State of North Carolina, and suit to enforce any provision hereof or to obtain any remedy with respect hereto shall be brought in state court in Onslow County, and for this purpose each Owner by becoming such hereby expressly and irrevocably consents to the jurisdiction of said court.

Section 24.12. Joinder of NCDWQ. The Division of Water Quality of the North Carolina Department of Environment and Natural Resources hereby joins this Declaration for the purposes of consent to the amendment to the Stormwater Permit provisions contained in the Declaration recorded in Book 3527, Pages 206 through 233, Onslow County Registry.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties below have caused this instrument to be executed as of the day and year first above written.

COMMERCIAL DECLARANT:

WARD FARM, LLC, a North Carolina
limited liability company

By: John R. Freshwater (SEAL)
John R. Freshwater, Member/Manager

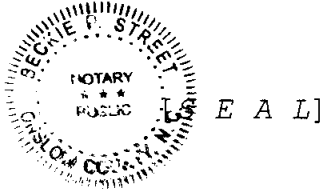
STATE OF NORTH CAROLINA)
) ss.
COUNTY OF ONSLOW)

This 25 day of March, 2013, personally came before me a Notary Public of Onslow County, JOHN R. FRESHWATER, who, being by me duly sworn, says that he/she is MEMBER/MANAGER of WARD FARM, LLC, a North Carolina limited liability company, and that said writing was signed by him/her in behalf of said LLC by its authority duly given and the Member/Manager acknowledged the said writing to be the act and deed of said LLC.

Witness my hand and official stamp or seal this 25 day of March, 2013.

Beckie P. Street
Notary Public: BECKIE P. STREET

My commission expires: 7-21-2016



IN WITNESS WHEREOF, the parties below have caused this instrument to be executed as of the day and year first above written.

COSTA CRISTAL, LLC, a North
Carolina limited liability company

By: John R. Freshwater (SEAL)
John R. Freshwater, Member/Manager

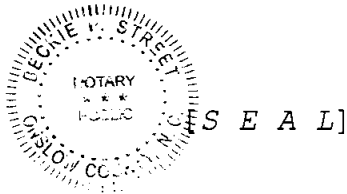
STATE OF NORTH CAROLINA)
) ss.
COUNTY OF ONSLOW)

This 25 day of MARCH, 2013, personally came before me a Notary Public of Onslow County, JOHN R. FRESHWATER, who, being by me duly sworn, says that he/she is MEMBER/MANAGER of COSTA CRISTAL, LLC, a North Carolina limited liability company, and that said writing was signed by him/her in behalf of said LLC by its authority duly given and the Member/Manager acknowledged the said writing to be the act and deed of said LLC.

Witness my hand and official stamp or seal this 25 day of MARCH, 2013.

Beckie P. Street
Notary Public: BECKIE P STREET

My commission expires: 7-21-2016



SWANSBORO METHODIST CHURCH, INC.,
a North Carolina non-profit
corporation

By: Wilbur Daniel Norris (SEAL)
 Wilbur Daniel Norris
 President of Board of Trustees

[illegible]

This 25 day of MARCH, 2013, personally came before me a Notary Public of Onslow County, WILBUR DANIEL NORRIS, who, being by me duly sworn, says that he/she is PRESIDENT OF THE BOARD OF TRUSTEES of SWANSBORO METHODIST CHURCH, INC., a North Carolina non-profit corporation, and that said writing was signed by him/her in behalf of said Corporation by its authority duly given and the President acknowledged the said writing to be the act and deed of said Corporation.

Witness my hand and official stamp or seal this 25 day
of MARCH, 2013.

Notary Public: BECKIE P. STREET

My commission expires: 7-21-2016



[S E A L]

[THIS PAGE PURPOSEFULLY OMITTED]

EXHIBIT "A"

BEING all of that certain tract or parcel shown as Tract One on that certain map or plat entitled, "Ward Farm, LLC Tracts One and Two" as prepared by Charles A. Rawls and Associates, PA, dated 2/22/2010 and recorded in Map Book 59, Page 156, Slide M-1470, Onslow County Registry.

EXHIBIT "B"

BEING all of that certain tract or parcel shown as Tract Three (Revised) on that certain map or plat entitled, "Parcel Recombination For Ward Farm, LLC and Costa Cristal, LLC" as prepared by Charles A. Rawls and Associates, PA, dated 01/18/2013 and recorded in Map Book 66, Page 2, Cabinet N, Onslow County Registry.