

DECLARATION OF  
COVENANTS, RESTRICTIONS AND EASEMENTS  
FOR DAVIDSON RESERVE

Prepared by and return to:  
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THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR DAVIDSON RESERVE (“Declaration”) is made as of June \_\_, 2025, by RISE DAVIDSON, LLC, a North Carolina limited liability company (“Declarant”).

RECITALS

WHEREAS, the Declarant is the owner of that certain property located in the Town of Davidson (the “Town”), Cabarrus County, North Carolina, described in Exhibit A hereto (the “Property”) and as shown on a plat thereof recorded in Book [REDACTED], Pages [REDACTED] & [REDACTED] of the Office of the Register of Deeds for Cabarrus County, North Carolina (the “Subdivision Plat”). The Declarant intends that various portions of the Property be set aside for the collective use of the owners and residents of the planned community known as Davidson Reserve to be created on the Property; and

WHEREAS, the Declarant has established this Declaration to create a planned community known as “Davidson Reserve” to provide for the shared ownership and maintenance of certain Common Areas, including conservation property, and to establish certain rules for the use and enjoyment of such Common Areas; and

WHEREAS, an approximately 48.30 acre portion of the Property, described in Exhibit B hereto (the “Conservation Property”) is subject to that certain Deed of Conservation Easement recorded in Book 16381, Page 141 of the Office of the Register of Deeds for Cabarrus County, North Carolina (the “Conservation Easement”) and this Declaration shall at all times, to the extent applicable to the Conservation Property, be subject and subordinate to the Conservation Easement; and

WHEREAS, In order to facilitate the objectives described herein, the Declarant has formed, or will form, a North Carolina non-profit corporation called The Reserve at James Farm Townhome Owner’s Association, Inc. (“Association”), which shall be responsible for the enforcement and performance of certain obligations under this Declaration.

NOW, THEREFORE, Declarant declares that the Property, together with such additions thereto as are hereafter made pursuant to Article 2 of this Declaration, shall be held, transferred, sold, conveyed, leased, mortgaged, used, occupied and improved subject to the easements, covenants, conditions, restrictions, servitudes, charges and liens created or provided for by this Declaration.

1. DEFINITIONS. The following words and terms have the following definitions, unless the context in which they are used clearly indicates otherwise.

1.1. “Act” means the North Carolina Planned Community Act, as contained in Chapter 47F of the North Carolina General Statutes (or as contained in any successor portion of the North Carolina General Statutes), as the same exists from time to time.

1.2. “Articles” means the Articles of Incorporation of the Association which have been filed in the office of the Secretary of the State of North Carolina, as amended from time to time.

1.3. “Assessment” means any of the types of assessments defined below in this Section.

1.3.1. “Common Assessment” means the amounts charged to each Lot subject to assessment by the Association, representing the Lot’s share of the Common Expenses as determined in accordance with this Declaration.

1.3.2. “Individual Assessment” means the amounts charged to one or more Lots by the Association in connection with (1) the enforcement of the Declaration as a result of the acts or omissions of the Owner of a Lot, their respective agents, contractors, subcontractors, employees, licensees or invitees for their failure to duly perform their obligations under the Declaration; (2) reimbursement for expenses incurred due to that Owner’s failure to comply with this Declaration; (3) reimbursement for injury, loss or damage caused by the Owner or their respective agents, contractors, subcontractors, employees, licensees or invitees, and not covered by insurance; or (4) any other purpose expressly authorized by this Declaration.

1.3.3. “Special Assessment” means and includes the following: the amounts charged to each Lot subject to assessment for any of the following purposes: (1) unbudgeted expenses or expenses in excess of the amounts budgeted; (2) expenses incurred for construction, repair, replacement or reconstruction of any Improvements on any portion of the Conservation Property; (3) expenses incurred for installation or construction of any Improvements in the nature of a capital improvement on any portion of the Conservation Property; (4) expenses incurred for Restoration of portions of the Conservation Property in the event the insurance proceeds are insufficient to pay the Restoration Costs or in the event the injury, loss or damage resulted from an uninsured loss; or (5) any other expenses approved as set forth in this Declaration. If Special Assessments are assessed for Common Expenses they shall be assessed equally against all Lots subject to assessment.

1.4. “Bylaws” means the Bylaws of the Association adopted by the Board, as amended from time to time.

1.5. “Code” means the Cabarrus County Development Ordinance, as amended and supplemented from time to time.

1.6. “Common Areas” means all real property and interests in real property, together with any Improvements situated thereon, intended for the common use and benefit of the

Owners, and/or the Permitted Users of the Property, and designated as a Common Area in this Declaration. For avoidance of any doubt, the Common Areas shall include the Conservation Property together with any easements, rights or apertances thereto.

1.7. “Common Expenses” means all of the actual and estimated expenses and liabilities for administering, Maintaining, managing, operating, insuring, repairing, and replacing the Common Areas, together with any other expenses as are specifically provided for elsewhere in this Declaration or are otherwise reasonably incurred in connection with the Common Areas.

1.8. “Community” means that planned community known as Davidson Reserve and depicted on the Subdivision Plat.

1.9. “County” means Carabbus County, North Carolina.

1.10. “Declarant” means Rise Davidson, LLC, a North Carolina limited liability company, its successors and those assigns to which the Declarant may assign all or a portion of its rights hereunder in a written assignment recorded in the Registry. In the event of a partial assignment, the assignee shall not be deemed the Declarant, but may exercise such rights of Declarant specifically assigned to it. Any such assignment may be made on a nonexclusive basis.

1.11. “Declarant Control Period” means any period of Declarant control as established in this Declaration. For purposes of this Declaration and other Governing Documents, “Declarant Control Period” refers to the period during which the Declarant shall have the right to majority control of the voting rights as set forth in this Declaration.

1.12. “Declarant’s Permittees” means the Declarant’s officers, directors, partners, joint venturers, managing members (and the officers, directors and employees of any such corporation, partnership, joint venture or limited liability company), employees, beneficiaries, agents, independent contractors (including both general contractors and subcontractors), suppliers, visitors, licensees and invitees and those of any affiliate of the Declarant.

1.13. “Declaration” and “this Declaration” “herein”, “hereto”, “hereof”, “hereunder” and words of similar import shall mean and refer to this document together with all exhibits and amendments to this document and any Supplemental Declarations thereto regardless when recorded.

1.14. “Governing Documents” means collectively this Declaration (including any Supplemental Declaration), Articles, Bylaws, and the rules and regulations of the Association and all exhibits to any of the foregoing, all as they may be amended, restated or supplemented from time to time.

1.15. “Guest” means any Person who is physically present in or occupies a Unit on a permanent or temporary basis at the invitation of the Owner or Tenant without the payment of consideration.

1.16. “Improvement” means any structure or artificially created condition or

appurtenance located on the Property, including any building constructed on any Lot, any additions and structural alterations to any Unit or Lot, any walkway, sprinkler pipe, road, driveway, parking area, fence, screening wall, retaining wall, stairway, deck, landscaping, hedge, fountain, tree, planting, shrub, windbreak, pole, swimming pool, pool deck, sign, screen enclosure, sewer, drain, disposal system, grading, paving, or exterior heating, ventilating or air-conditioning equipment, solar panels, or water softener fixture or equipment.

1.17. “Include,” “includes,” or “including” is intended to include of the particular matter described and to be interpreted as if it were followed by either the phrase “without limitation” or “but not limited to,” unless otherwise clearly obvious from the context.

1.18. “Lot” means that portion of the Property (1) which is developed or intended for development, use and occupancy as a Unit and is shown as a numbered or letter parcel on any Subdivision Plat of any part or all of the Property and is declared to be a Lot in this Declaration or a Supplemental Declaration and (2) which is not a Common Area, dedicated street or transit right of way, or greenway or park lands owned in fee simple by the Town or County. The Declarant may declare a portion of the Property to be a “Lot” on a Subdivision Plat, replat, or by this Declaration, any Supplemental Declaration or any other recorded instrument. The term “Lot” shall include any Unit and Improvement constructed thereon.

1.19. “Maintain,” “Maintenance,” “Maintaining,” or any similar term used in this Declaration includes any one or more of the following, as the context requires: re-construction, maintenance, inspection, examination, upkeep, remedy of defects in the materials or workmanship of an Improvement, cleaning, renewal, alteration, repair, replacement, repainting, remodeling, restoration, removal, improvement, administration, operation, use, planting, mowing, cutting, trimming, pruning, fertilizing, watering and preservation, and with respect to any replacement items, acquisition, purchase, construction and installation.

1.20. “Member” means each Person who or which holds membership in the Association by virtue of his ownership of a Lot.

1.21. “Mortgage” means any mortgage or deed of trust encumbering a portion of the Property, including a Lot. “First Mortgage” means any recorded Mortgage with first priority or seniority over other Mortgages on a particular portion of the Property.

1.22. “Mortgagee” means any beneficiary, payee or holder of any Mortgage, and the term Mortgage is deemed to refer to both mortgages and deeds of trust. “First Mortgagee” means any beneficiary, payee or holder of a First Mortgage.

1.23. “Operating Deficit” means for any calendar year, the difference between the total amount of the Assessments for such calendar year levied on all Lots and the amount of actual expenditures by the Association during such calendar year for Common Expenses, excluding (1) expenditures for the funding of reserves, and (2) Special Assessments for capital improvements.

1.24. “Owner” means the record Owner, whether one or more Persons, of fee simple

title to any Lot. “Owner” shall not include Declarant (during the Declarant Control Period), or any Person who holds an interest in a Lot as security for the performance of an obligation or as a Tenant or as a purchaser under an executory contract of sale.

1.25. “Permitted Users” means the Tenant or Guests of an Owner, but shall not exceed the lesser of: i) the immediate family members (consisting of the Owner or Tenant and the children of such Owner or Tenant) of either the Owner or the Tenant; or ii) a total of seven (7) Persons per Lot. A Permitted User may allow a Guest to use the Common Areas on a limited basis, not to exceed more than 2 Guests at any time, so long as the maximum number of users does not exceed 7 per Lot. Guests must be accompanied by an Owner or Tenant at all times.

1.26. “Person” includes any natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental entity (including the Town), or other entity.

1.27. “Property” means, collectively, all of the real property and interests in real property subject to any part or all of the terms of this Declaration. The Property is legally described in Exhibit A hereto (plus all Improvements thereon), plus whatever additional real property (together with all Improvements thereon) is declared to be Property in any Supplemental Declaration, less whatever portions of the Property (together with all Improvements thereon) are declared to be withdrawn from the provision of this Declaration in any Supplemental Declaration.

1.28. “Registry” means the office of the Cabarrus County Register of Deeds (or any successor office under applicable law). All references herein to recording or to any requirement to record a document or Subdivision Plat refer to recording in the Registry of the County or Counties in which the applicable portion of the Property is situated.

1.29. “Subdivision Plat” means that certain [Recorded Plat] recorded in the Registry on [Date], at Book [ ], Page [ ]. The Declarant reserves the right to alter, modify or replat all or any portion of a Subdivision Plat as it deems desirable in its sole discretion.

1.30. “Supplemental Declaration” means any instrument recorded by the Declarant in the office of the Registry for the purpose of: adding additional property to the Property; declaring other property to be Lots, Units or Common Areas; withdrawing property from the Property; or changing the designation of certain property as Lots, Common Areas or Future Development Property.

1.31. “Tenant” means any Person who is physically present in or is entitled to occupy a Unit in exchange for consideration in accordance with the terms and conditions set forth herein.

1.32. “Unit” means a Lot on which has been constructed an Improvement intended for use and occupancy as a single residential dwelling unit.

1.33. Interpretation and Flexibility. In the event of any ambiguity or question as to

whether any Person, property or Improvement falls within any of the definitions set forth in this Article 1, the determination made by Declarant in such regard (as evidenced by a recorded Supplemental Declaration stating same) during the Declarant Control Period shall be binding and conclusive.

2. GENERAL PLAN OF DEVELOPMENT; PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO.

2.1. General Plan. Declarant is the owner of the Property. Declarant presently plans to develop all or a portion of the Property as a planned community comprised of residential, recreational and related uses.

2.2. Legal Description. The legal description of the Property is provided on Exhibit A attached hereto. Declarant hereby subjects the Property to this Declaration.

2.3. Supplements. Declarant has the right, but not the obligation, to develop the land constituting the Property in "phases" from time to time and to declare such portions of the Property to be Lots, Units or Common Areas by Supplemental Declaration. As long as the Declarant owns any property in the Community, the Declarant may designate as "Property" other land in the Community or any adjacent property (including the Improvements thereon) by recording Supplemental Declarations, which shall not require the consent of then-existing Owners. If Declarant is not the owner of the land to be added to the Property as of the date the applicable Supplemental Declaration is to be made, then the owner(s) of such land shall join in such Supplemental Declaration. Once so added, such land shall be deemed a part of the Property. Nothing in this Declaration shall, however, obligate Declarant to develop any other real property (adjacent or otherwise) under the common scheme contemplated by this Declaration, nor to prohibit Declarant (or the applicable Declarant-affiliated Owner) from changing the development plans with respect to the Property.

All Owners by acceptance of their deeds to or other conveyances of their Lots thereby automatically consent to any such change, addition, withdrawal or deletion thereafter made by the Declarant (or the applicable Declarant-affiliated Owner thereof) and shall evidence such consent in writing if requested to do so by the Declarant at any time (provided, however, that the refusal to give such written consent shall not obviate the general effect of this provision).

Any such Supplemental Declaration may submit the property added by it to such additions to and modifications as may be necessary or convenient in the Declarant's judgment to reflect or adapt to any changes in circumstances or difference in the character of the added properties or Improvements thereon.

The Declarant reserves the right to modify the voting interests, Assessment rates and Assessment commencement dates by Supplemental Declaration.

2.4. Disclaimer of Implication. Only the Property described in Exhibit A hereto is submitted to this Declaration. Unless and until a Supplemental Declaration is recorded in the

fashion required by this Declaration with respect to it, no other portion of the Community, if any, shall be in any way affected by the Declaration, and every such portion may be freely sold, conveyed or otherwise disposed of by their owner or owners free and clear of the Declaration.

2.5. Amendment. This Article shall not be amended without the prior written consent of the Declarant, so long as Declarant (or any of its affiliates) owns any portion of the Community.

### 3. COMMON AREA PROVISIONS.

3.1. Common Areas. Certain portions of the Property are designated as Common Areas and are designed and intended for the common, non-exclusive use of the Declarant, Owners of all Lots, and all of the respective Permitted Users and invitees of the Declarant and the Owners, all as provided and regulated herein. During the Declarant Control Period, Declarant shall have the exclusive right, subject to obtaining all required governmental approvals and permits, to construct on the Common Areas such facilities as Declarant deems appropriate. The timing and phasing of all such construction shall be solely within the discretion of Declarant.

Common Areas may change from time to time in connection with changes in development plans and other factors not now known (including by increase, decrease or transfer to a governmental entity). Accordingly, references in this Declaration to the Common Areas shall be deemed to refer to the Common Areas as they may exist as of the relevant time.

3.1.1. This Declaration is subject to any other restrictions, easements or other matters currently of record which affects any of the Property including without limitation the Conservation Easement. Additionally, Declarant reserves on behalf of the Owners the right to accept any easements in favor of the Property over, under, across or through any portion of the Property or real property which abuts or is adjacent to the Property, and such easements shall be deemed Common Area to the extent of such easements created. Any real property shall be considered adjacent to or abutting the Property even though a street, lake, canal or similar geographic separation may lie between any of such properties.

3.1.2. Declarant will endeavor to specifically identify (by recorded legal description, signage, physical boundaries, site plans, Subdivision Plat, or other means) the Common Areas of the Property, but such identification shall not be required in order for a portion of the Property to be a Common Area hereunder.

3.1.3. Declarant or the Association may install and maintain walking, hiking, and equestrian trails and related passive recreational amenities within the Common Areas, provided such activity is consistent with and does not violate the terms of the Conservation Easement. Any such trail development, including extension, relocation, or material improvement of existing trails, shall require majority approval of the Owners.

3.1.4. The Conservation Property is subject to that certain Deed of Conservation

Easement recorded in Book 16381, Page 141 of the Office of the Register of Deeds for Cabarrus County, North Carolina (the "Conservation Easement"). The Conservation Easement expressly includes the right of access over that certain 60 foot wide Perpetual Access Easement as shown on that certain Plat recorded in Map Book 95, Pages 44 and 45 of the Cabarrus County Public Registry. Attention is also called to those provisions of the Conservation Easement that allow access to the Conservation Easement area by the Davidson Lands Conservancy, and in particular Section 6 of the Conservation Easement, for the purposes set forth therein. The provisions of this Declaration shall at all times be interpreted and applied in a manner consistent with the Conservation Easement, and in the event of any conflict between this Declaration and the Conservation Easement, the terms of the Conservation Easement shall control. All Owners acknowledge receiving a copy of the Conservation Easement as part of their purchase of a Lot and understand that the use and enjoyment of the Conservation Property is limited by the terms of the Conservation Easement. All use of the Common Areas, and particularly the Conservation Property, shall be strictly in accordance with the Conservation Easement. Any activity permitted by this Declaration but prohibited by the Conservation Easement shall be deemed prohibited. The Association shall not adopt any rule or regulation that would violate the terms of the Conservation Easement.

3.2. Prior to Conveyance. The Owners shall have no right in or to any portion of the Community unless and until same is declared to be a Common Area in this Declaration or any Supplemental Declaration. The Declarant has no obligation or responsibility to construct or supply any such Common Area, and no party shall be entitled to rely upon any statement contained in this Declaration as a representation or warranty as to the extent of the Common Areas to be owned, leased by, or dedicated to the Association. During the Declarant Control Period, the Declarant shall retain the right to add to, delete from, and modify any of the Common Areas, and to convert Common Areas to Lots or Lots to Common Areas, in which event Declarant shall record an amendment to this Declaration in the Registry, together with such plats showing the boundaries of any such Lots or Common Areas so converted.

3.3. Conveyance or Dedication of Common Areas. Except for those areas which the Code requires be conveyed to the County, the Common Areas shall be conveyed to the Association, subject to this Declaration, drainage, greenway, utility, the Conservation Easement, and other easements, restrictions, reservations, conditions, limitations, and declarations of record at the time of conveyance, zoning, land use regulations and survey matters and the lien of real property taxes not yet due and payable. Title to Common Areas shall be conveyed at such time as as may be determined by Declarant in its sole discretion, or when required by the Code or Act. The Association shall accept all Common Areas deeded to it and/or dedicated to it on any recorded Subdivision Plat of the Property, including any Improvements installed thereon by Declarant, without setoff, condition, or qualification of any nature, whether or not the conveyance or dedication occurs prior to the time of the conveyance of the first Lot within the applicable phase of the Property. The Association shall be responsible for the Maintenance of all Common Areas (whether or not conveyed or to be conveyed to the Association) in a continuous and satisfactory manner provided, however, Declarant, in its sole discretion may elect, but shall not be obligated, to maintain such Common Areas in such manner as Declarant deems reasonable prior to its conveyance of such Common Area(s) to the Association. The conveyance

or transfer of Common Areas shall be by a special warranty deed in a completed and well maintained condition. Subject to any rights it may have under the Act, the Association shall be deemed to have assumed and agreed to pay all continuing obligations and services and similar contracts relating to the ownership, Maintenance and operation of the Common Area and other obligations relating to the Common Area imposed herein.

3.4. Operation After Conveyance. After the conveyance or transfer of any portion of the Common Area to the Association, the portion of the Common Area so conveyed or transferred shall be owned, operated, Maintained and administered by the Association for the use and benefit of the Owners, in accordance with this Declaration, the Conservation Easement and the rules and regulations of the Association. Subject to the Owner's right to grant easements, leaseholds and other interests as provided herein, the Association may not convey, transfer or encumber all or any portion of the Common Areas to a third party without (a) the approval of eighty (80%) percent of the total voting interests of the Members; and (b) the written consent of the Declarant during the Declarant Control Period.

3.5. Taxes. It is intended that all real estate taxes assessed against the Common Areas shall be proportionally assessed against and payable as part of the taxes of the Units within the Property. However, in the event that, notwithstanding the foregoing, any such taxes are assessed directly against the Common Areas, the Association shall be responsible for the payment (subject to protest or appeal before or after payment) of the same, including taxes on any Improvements and any personal property thereon accruing from and after the date this Declaration or Supplemental Declaration designating the portion of the Property as Common Areas was recorded. Such taxes shall be prorated between Declarant (or the then Declarant-affiliated Owner thereof) and the Association as of the date of such recordation. Any taxes on the Common Areas shall be Common Expenses of the Association.

3.6. Assumption of Risk. Without limiting any other provision herein, each Person using any portion of the Common Areas accepts and assumes all risk and responsibility for liability, injury, loss or damage connected with use of such Common Areas. The Person also expressly indemnifies and agrees to hold harmless the Declarant, the Owners, the Association and all employees, directors, representatives, officers, agents, members and partners of the foregoing, from any and all damages, whether direct or consequential, arising from or related to the Person's use of the Common Areas, including attorneys' fees and costs at trial, upon appeal or otherwise.

3.7. Negligence. The expense of any Maintenance, repair or construction of any portion of the Common Areas necessitated by the negligent or willful acts of an Owner, its Permitted User or other Person utilizing the Common Areas, through or under such Owner, shall be borne solely by such Owner and the portions of the Property owned by that Owner shall be subject to an Individual Assessment for that expense.

3.8. Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Areas or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any judicial partition of the Common Areas or any part

thereof, unless the Property has been removed from the provisions of this Declaration.

#### 4. MEMBERSHIP, GOVERNANCE AND VOTING RIGHTS IN THE ASSOCIATION.

4.1. Membership. Declarant and every Owner within the Property shall be a Member of the Association, and by execution of this Declaration or by acceptance of a deed conveying to such Owner title to any Lot, each Owner consents to be a Member of the Association, subject to the terms of the Governing Documents. Membership shall be appurtenant to and may not be separated from ownership of the Member's Lot. The foregoing is not intended to include any Person that holds an interest merely as security for the performance of an obligation. Upon termination of ownership, an Owner's membership with respect to the transferred Lot shall automatically terminate and be automatically transferred to the new Owner of the Lot.

4.1.1. Voting Rights. During the Declarant Control Period, Declarant shall have the power to direct and control the decisions of the Association without a vote of the Members. The Declarant Control Period shall automatically terminate upon the earliest of: (i) the sale and conveyance of seventy-five percent (75%) of the Lots to Owners other than Declarant; (ii) five (5) years after the date of recording of this Declaration; or (iii) upon written notice from Declarant to the Association of Declarant's voluntary termination of the Declarant Control Period. Upon termination of the Declarant Control Period, each Owner shall be entitled to one (1) vote for each Lot owned, and control of the Association shall transfer to the Owners. Unless otherwise set forth herein, any action, Assessment or other determination of the Association shall be approved by a majority vote of Owners present at a duly called meeting at which a quorum of Owners are present.

4.1.2. Co-Owners. When more than one Person holds an interest in any portion of a Lot, all such Persons shall be Members of the Association and may attend any meeting of the Association. The vote or votes for such portion of the Property shall be exercised as such Persons may determine among themselves, but in no event shall more votes be cast with respect to any portion of the Property than the number provided in this Declaration. If a Lot is owned by two or more co-owners and only one of the co-owners is present at a meeting of the Owners, the co-owner who is present is entitled to cast all the votes allocated to that Lot. If more than one of the co-owners are present, the votes allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the multiple co-owners. Majority agreement is conclusively presumed if any one of the co-owners casts the votes allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other co-owners of the Lot.

4.2. Modifications. The Declarant, during the Declarant Control Period, shall have the right in its sole discretion to modify the voting allocations set forth in this Article and to set forth such modified allocations in a Supplemental Declaration. After the Declarant Control Period, the Association, by a supermajority vote of at least 75% of the total voting interest of the Members.

4.3. General Matters. When reference is made to a majority or specific percentage of

Owners or Members, such reference shall be deemed to be reference to a majority or specific percentage of the voting interests of Members represented at a duly constituted meeting thereof (i.e., one for which proper notice has been given and at which a quorum exists) and not of the number of the Members themselves or number of Lots or the total aggregate number of voting interests unless this Declaration or Act expressly requires a majority or specific percentage of the “total voting interests,” in which case the majority or specific percentage shall be computed on the total aggregate number of Lots in the Community.

## 5. CERTAIN EASEMENTS AND RIGHTS.

5.1. Owners’ Rights of Use. Each Owner and Permitted User of a Lot shall have a non-exclusive right of use and enjoyment and easement in the Common Areas, including the right of ingress and egress to and from all Common Areas throughout the Property, subject to such rules and regulations as are imposed by the Association and subject to suspension of use; provided that no suspension of rights shall occur without first providing notice of the charge, opportunity to be heard and to present evidence, and notice of the decision.

5.2. Limitations on Use of Common Areas. All rights of use and enjoyment in the Common Areas are subject to the following:

5.2.1. The Conservation Easement including all easements, restrictions and reservations set forth therein or any amendments thereto, now or in the future.

5.2.2. Hunting and trapping on the Common Areas is permitted, subject to rules and regulations of the Association and the Conservation Easement.

5.2.3. Motorized vehicles, including but not limited to dirt bikes, ATV’s, UTV’s, ATVs, off road vehicles, etc., are not permitted to operate on the Common Areas except for emergency purposes.

5.2.4. No Owner is permitted to make any alterations to the Common Areas, including but not limited to, clearing, grading, earth moving, cutting trees, removing vegetation, erecting any improvements, structures, tree houses, forts, barns, sheds, hunting stands, hunting blinds or other activities, without the prior approval of the Association and in compliance with the Conservation Easement.

5.2.5. Any special events or gatherings of more than ten (10) persons on the Common Areas must receive prior approval of the Association.

5.2.6. The right of the Association to:

5.2.6.1. Suspend the rights of an Owner and his Permitted Users to use the Common Areas for any period during which any applicable Assessment remains unpaid subject to the requirements of the Act and this Declaration.

5.2.6.2. Adopt and enforce rules and regulations governing the use of the Common Areas. Any rule and/or regulation so adopted by the Association shall apply until rescinded or modified.

5.2.7. The Declarant shall have the right, but not the obligation, to construct, erect and build Improvements over such streets, drives, roadways, sidewalks, paths, walks and parking areas within or upon the Common Area. Notwithstanding the foregoing, as long as the Declarant or any of its affiliates owns any property in the Community, the Declarant, by Supplemental Declaration or other written instrument, may limit or restrict access to certain private streets, drives, roadways, walkways, paths and parking areas within or upon the Common Area.

5.2.8. Declarant shall have the right from time to time to enter upon the Common Areas and other portions of the Property (including Lots and Units) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion or alteration of any Improvements or facilities on the Common Areas or elsewhere in the Property.

5.2.9. The Association shall have the right to use funds assessed for such purpose to purchase, lease, finance, and otherwise acquire interests in real property and improvements for addition to the Common Area and related amenities. Declarant and the Association shall further have the right to borrow funds for such purposes, on such terms as may be determined by Declarant. Notwithstanding the foregoing, no funds of the Association shall be used to pay for Declarant's acquisition or development of the Property.

5.2.10. The Association shall have the right to enter into agreements with other communities, neighborhoods, municipalities or other third parties for the use of the Common Areas or the use of amenities and facilities owned or operated by such third parties. Any cost to with respect to such agreements may be included as a part of Common Assessments.

5.3. Right to Grant or Relocate Easements. The Declarant (as long as the Declarant or any of its affiliates owns any property in the Community) and thereafter the Association shall have the right to grant, convey and relocate easements, licenses or rights of way in, on, over or under the Common Areas for purposes consistent with the terms of this Declaration, including constructing, installing, erecting, operating or Maintaining thereon, therein and thereunder: (1) streets, walks, trails, driveways, parkways, landscaping, parks and open space areas; (2) lines, cables, wires, conduits, facilities and other devices for the transmission of electric, heating, cooling, water, sanitary sewerage, gas, television, telephone, voice or electronic data and other similar purposes; (3) stormwater facilities; (4) irrigation systems; (5) any Improvements or uses for the general health or welfare of the Owners, for the Maintenance of the Property, or any portion thereof, or for the purpose of carrying out any provision of this Declaration; and (6) any similar Improvements or uses not inconsistent with the use of such property pursuant to this Declaration. Notwithstanding the foregoing, such easements or the relocation of existing easements will not prevent or unreasonably interfere with the use and enjoyment of the Common Areas or the use of or ingress and egress to the Lots for their intended purposes.

5.4. Easements over Lots and Units. The Association and its duly authorized agents, employees or independent contractors shall have an easement over each Lot and Unit as may be reasonably necessary to carry out any provision of this Declaration, including the Maintenance of Common Areas, enforcement of this Declaration, inspection (in a reasonable manner) in order to determine whether any Maintenance or enforcement is necessary, provided that any such entry is during reasonable hours.

5.5. Utility Easements. Utilities in the Common Areas for the service of the Property shall be installed underground except as otherwise permitted by Declarant.

5.6. Access for Governmental Agencies; Service and Emergency Easements. A non-exclusive, perpetual right of access over all Lots and Common Areas (including private streets, if any) on the Property is established for the benefit of governmental entities for installing, removing and reading utility meters, Maintaining and replacing utility facilities and lines, and acting for other purposes consistent with public safety and welfare, including law enforcement, fire protection, animal control, emergency services, garbage collection and public or private mail and package delivery.

5.7. Easements Appurtenant. The easements provided in this Article shall be appurtenant to and shall pass with the title to each Lot.

5.8. Improvements To Common Areas. Subject to this Declaration and the restrictions in the Conservation Easement, the Association may, with approval of 67% of the Owners, construct improvements within the Common Areas, which may include by way of example and not limitation a barn, picnic shelter, wildlife observation structures and other similar improvements. Any such improvements (i) must comply with this Declaration and the Conservation Easement; (ii) must be approved by the Davidson Lands Conservancy if required by the Conservation Easement; (iii) must be consistent with the natural character of the Common Areas; (iv) must be for the use of all Owners in common; and (iv) shall be funded through Special Assessments unless otherwise determined by the Association.

5.9. Declarant's Easement. The Declarant shall have a perpetual easement of use and access to the Common Areas.

## 6. FUNCTIONS OF THE ASSOCIATION.

6.1. Powers and Duties. Subject only to such limitations expressly set forth in the Governing Documents, the Association (1) shall have all of the powers of a North Carolina not-for-profit corporation; (2) shall have and may exercise any right or privilege given to it expressly in the Governing Documents; (3) shall have and may exercise any right or privilege given to it by the Act or other law and (4) shall have and may exercise every other right, privilege, power or authority necessary or desirable to fulfill its obligations under the Governing Documents.

6.2. Assessments. The Association shall have the power and duty to impose

Assessments on the Owners of Lots with respect to which Assessments have commenced and to collect and enforce payment of such Assessments.

6.3. Rules. The Association shall have the power to adopt, amend and enforce rules and regulations applicable within the Property with respect to any Common Areas. All rules and regulations adopted by the Association shall be reasonable and shall be uniformly applied. A copy of the rules, as they may from time to time be adopted, amended or repealed, shall be mailed to or otherwise made available to each Owner. Thereafter, the rules and regulations shall have the same force and effect as if they were set forth herein; provided, however, that the rules and regulations shall be enforceable only to the extent that they are consistent with this Declaration, and may not be used to amend any provisions set forth herein.

6.4. Borrowing. The Association has the right with the consent of the Declarant, during the Declarant Control Period, to borrow money for any purpose, subject to any limitation in this Declaration, to execute promissory notes, other documents evidencing or securing the indebtedness; provided that in the event the aggregate amount of principal indebtedness incurred by the Association in any Fiscal Year exceeds the greater of \$100,000, as adjusted by the CPI, then such actions must be approved by Members holding a majority of the voting interests present in person or by proxy at a duly called meeting of the Association at which a quorum is attained. In the event that the Association desires to mortgage, pledge or encumber any or all of its Common Area as security for money borrowed or debts incurred, then the Association must obtain the approval of eighty (80%) percent of the total voting interests of the Members.

6.5. Special Events. The Declarant and the Association shall have the right, but not the obligation, to grant special use rights, permits and privileges in the Common Area and Improvements thereon for special events, festivals, gatherings and other usage. In addition, the Association shall have the right to enter into agreements with others for purposes relating to, the joint or cooperative marketing, advertising and promoting of the Association, regulating and providing parking within the Community, including special event parking, and other areas of interest to the Association and its Members.

6.6. Management. The Association may, and is strongly encouraged to, employ a professional management company to handle administrative matters, including but not limited to collection of Assessments, maintenance coordination, insurance administration, and compliance with the Conservation Easement. The decision to employ or terminate a management company shall require approval of a majority of Owners after the Declarant Control Period has ended. During the Declarant Control Period, the Declarant shall have the authority to hire a management company on behalf of the Association, with costs shared as a Common Expense. If the Association elects to self-manage after the Declarant Control Period, such decision must be reviewed annually and shall require approval of 75% of Owners.

## 7. MAINTENANCE OF LOTS AND COMMON AREAS.

### 7.1. Maintenance of Lots.

7.1.1. The Maintenance of each Lot and all Improvements located on the Lot shall be the sole obligation of the Owner(s) of such Lot or Unit. Each Owner shall Maintain the trees, shrubbery, grass and other landscaping, and all parking, pedestrian, recreational and other open areas on his Lot in a neat, orderly and attractive manner and consistent with the standards set forth in Section 7.44.

7.2. Remedies for Noncompliance.

7.2.1. In the event an Owner fails to Maintain or cause to be Maintained his Improvements and Lot in accordance with this Article, the Association shall have the right (but not the obligation), upon five (5) days' prior written notice to the Owner at the address last appearing in the records of the Association, to enter upon the Owner's Lot and perform such work as is necessary to bring the Lot or Improvements, as applicable, into compliance with the standards set forth in Section 7.44. Such work may include, but shall not necessarily be limited to, the repainting or re-staining of exterior surfaces of an Improvement, the repair of walls, fences, roofs, doors, windows and other portions of Improvements on a Lot; and such other remedial work as is judged necessary by the applicable entity.

7.2.2. The remedies provided for herein shall be cumulative with all other remedies available under this Declaration or other applicable covenants or deed restrictions (including the imposition of Individual Assessments or the filing of legal or equitable actions).

7.3. Costs of Remedial Work; Surcharges. In the event that the Association performs any remedial work on an Improvement or Lot pursuant to this Article or any other applicable covenants or deed restrictions, the costs and expenses thereof shall be deemed an Individual Assessment and may be immediately imposed by the Association. In order to discourage Owners from abandoning certain duties hereunder and, additionally, to reimburse itself for administrative expenses incurred, the Association may impose a surcharge of not more than twenty-five (25%) percent of the cost of the applicable remedial work, such surcharge to be a part of the Individual Assessment. No bids need be obtained for any of the work performed pursuant to this Section and the Person(s) performing such work may be selected by the applicable enforcing entity in its sole discretion.

7.4. Standards for Maintenance; Restoration. All Maintenance and Restoration of Property, Units, Lots shall be performed in a manner consistent with the general appearance of the developed portions of the Property and, as to Units, the portion of the Property in which the Unit is located. The minimum (though not sole) standard for the landscaping shall be the more stringent of the following: the Community standard or the general appearance of the Property (and the applicable portion thereof as aforesaid) as initially landscaped. The minimum (though not sole) standard for Maintenance and Restoration of Property, Units and Lots shall be the more stringent of the following: the Community standard or the prevailing standard for the portion of the Property in which the Unit is located taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness, in the judgment of Declarant or the Association (as hereinafter defined). The Owner shall repaint, re-stain, or refinish, as appropriate, the exterior portions of his Improvements (with the same colors and materials as

initially used or as approved by the Association) as often as is necessary to comply with the foregoing standards. Lots shall at all times be kept free from trash, debris, unsightly conditions, inoperable vehicles, hazardous substances

7.5. Common Area Maintenance. The Association shall at all times Maintain in good repair, operate, manage, insure, and replace as often as necessary the Common Areas and all Improvements situated on the Common Areas (upon completion of construction by Declarant or its affiliates, if applicable) in a neat, orderly and attractive manner consistent with the standards set forth in Section 7.44.

## 8. INSURANCE.

8.1. Insurance by the Association. The Association shall obtain and Maintain insurance covering the following, the cost of which will be a Common Expense:

8.1.1. Property insurance on the Common Areas insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils; and the total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies;

8.1.2. General liability insurance covering loss or damage to Persons or property arising out of or in connection with the use, ownership or Maintenance of the Common Areas. Such insurance shall cover the acts or omissions of the Association, its officers, directors, employees, contractors, agents or invitees on or about or in connection with the Common Areas or adjoining driveways and walkways, and with a cross liability endorsement to cover liability of Owners as a group to any Owner, and vice versa. The coverage amount for such insurance shall be determined by the Association, but with a minimum combined single limit liability of not less than \$2,000,000 for each accident or occurrence.

8.1.3. If the insurance described in this Section is not reasonably available, the Association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Owners. The Association may carry any other insurance it deems appropriate to protect the Association or the Owners.

8.1.4. Any portion of the Property for which insurance is required under Section 8.11 which is damaged or destroyed shall be repaired or replaced promptly by the Association unless: (1) repair or replacement would be illegal under any State or local health or safety statute or ordinance; or (2) the Members decide not to rebuild by an eighty percent (80%) vote of the total voting interests of the Members. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If any portion of the Common Areas is not repaired or replaced: (1) the insurance proceeds attributable to the damaged Common Areas shall be used to restore the damaged area to a condition compatible with the remainder of the Community; and (2) the remainder of the proceeds shall be distributed to all the Owners or

lienholders, as their interests may appear, in proportion to the Common Expense liabilities of all Owners. Notwithstanding the provisions of this subsection, §2-118 of the Act governs the distribution of insurance proceeds if the Association is terminated.

9. COVENANT FOR ASSESSMENTS AND OTHER AMOUNTS.

9.1. Obligation for Assessments. Each Owner is deemed to consent and agree to pay to the Association (or to any Person who may be designated by the Association to collect such monies) all Assessments and other charges required by this Declaration, including the following: (1) Common Assessments; (2) Special Assessments; (3) Individual Assessments for any expense under this Declaration for which the Association becomes obligated to pay and pays on behalf of an Owner or otherwise is authorized by this Declaration; (4) fines for violations of the provisions of this Declaration Assessments levied against Owners for misuse and damage to the Common Areas by the Owners or their household members, Tenants, Guests, agents or contractors; and (5) all other Assessments and charges imposed or allowed to be imposed by this Declaration. No Unit shall be assessed separately from the Lot on which it is situated.

9.2. Purpose of Assessments. The Common Assessment is for the purpose of funding the Common Expenses of the Association, including monies allocated for reserve funds, for the Fiscal Year to which the Common Assessment applies and in accordance with the budget for that Fiscal Year adopted by the Association, although such Assessments may be used for payment of any Common Expenses as determined by the Association.

9.3. Amount of Assessments. Subject to any exemptions or limitations stated in this Declaration or otherwise granted by the Declarant, the Association is at all times empowered to levy Common Assessments against the Lots and the Owners of Lots within the Property for the payment of Common Expenses and to levy such other Assessments as are authorized by this Declaration.

9.4. Budgets. All budgets of the Association shall be prepared and proposed in good faith and with the intent to cover all reasonably necessary Common Expenses for the applicable Fiscal Year, including reasonable reserves for replacement and deferred Maintenance, if applicable. Prior to the beginning of each Fiscal Year, the Association shall adopt budgets for such Fiscal Year which shall estimate all of the Common Expenses, including reserves, if applicable. At a minimum the proposed budget shall cover the expenses for insurance and taxes associated with the Common Areas.

The budget shall be based on the estimated Common Expenses for the Lots which have been declared to be part of the Property. The budgets shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than the amount to be generated through Common Assessments.

The Association shall then establish the Common Assessments for each Lot subject to

such assessment and shall notify each Owner in writing of the amount, frequency, and due dates of such Assessments. The Association may round any Assessments to the nearest dollar.

Notification of any increase in an annual budget shall be provided by any of the following: (a) in a conspicuous place in the Common Area; (b) on an Internet website maintained by the Association; (c) by electronic mail; or (d) through other methods that ensure actual notice. From time to time during the Fiscal Year, the Association may modify the budget. Pursuant to the revised budgets the Association may change the amount, frequency or due dates of the Assessments. In no event shall any such Assessment be due less than ten (10) days from the date of the notification of such Assessment.

9.5. Common Assessments. The Association shall assess all Lots for the actual and estimated Common Expenses incurred, which may include a reasonable reserve for capital repairs and replacements, all as may be determined from time to time by the Association in accordance with this Declaration. The Owner of a Lot shall become obligated to pay the full amount of the Common Assessment commencing on the day the Declarant conveys the Lot to an Owner other than the Declarant. Notwithstanding anything in this Declaration to the contrary the Declarant shall have no obligation to pay Common Assessments.

9.6. Special Assessments for Common Expenses. In addition to the Common Assessments on the Lots, the Association may assess, from time to time, Special Assessments to defray, in whole or in part, (1) unbudgeted expenses or expenses in excess of the amounts budgeted for Common Expenses; (2) expenses incurred by the Association for repair, replacement or reconstruction of any Improvements on any portion of the Common Areas; (3) expenses incurred by the Association for installation or construction of any Improvements in the nature of a capital improvement on any portion of the Common Areas. In the event that the amount of the Special Assessments for Common Areas payable in any one Fiscal Year in the aggregate exceeds one hundred (100%) percent of the Common Assessments (including reserves) allocated to such Lot for the previous Fiscal Year, then such Special Assessments shall require the vote or written consent of a majority of the total voting interests of the Members. It is the intent of this Section that any expenses costing less than the aforesaid amount be paid for by Common Assessments, with an appropriate adjustment to the budget of the Association and the Common Assessments assessed thereunder, if necessary. No action authorized in this Section shall be taken without the prior written consent of the Declarant as long as the Declarant or any of its affiliates owns any property in the Community. Notwithstanding anything in this Declaration to the contrary the Declarant shall have no obligation to pay Special Assessments.

9.7. Individual Assessments. Each Owner shall be liable to the Association for all damage to any portion of the Common Areas or other Lots resulting from misuse, negligence, failure to Maintain or otherwise caused by the Owner, its Permitted Users or the Tenants, contractors, subcontractors, licensees, invitees, employees, directors, officers, household members or guests of either. The Association shall have the right to levy an Individual Assessment therefor against such Owner or Owners. The Association may also levy an Individual Assessment against an Owner to reimburse the Association for costs incurred, including but not limited to attorney fees and court costs, in any enforcement action or in

bringing any Lot or Unit into compliance with this Declaration. To the extent permitted by law, such Individual Assessment shall be a lien against the Lot as provided in this Article and shall be subject to the provisions of the Act relating to notice, filing of a claim of lien, collection and enforcement of delinquent Assessments. Notwithstanding anything in this Declaration to the contrary the Declarant shall have no obligation to pay Individual Assessments.

9.8. Due Dates. The Common Assessments shall be payable annually or as otherwise determined by the Association. The due date of any Special Assessments shall be fixed in the resolution authorizing such Assessment.

9.9. Disapproval of Budgets. The Association shall adopt a proposed budget at least annually. Within thirty (30) days after the adoption of the proposed budgets for the Assessments, the Association shall provide to each Owner a copy of those budgets for the Assessment(s) applicable to the Owner's Lot together with a notice of an Owners' meeting to consider ratification of the budgets including a statement that the budgets may be ratified without a quorum. The date for such meeting not less than 10 days or more than 60 days after the mailing of the budgets and notice. Such meeting may, but need not be, combined with the annual meeting of the Owners. There shall be no requirement that a quorum of the Members be present at the meeting in person or by proxy to vote on ratification of the budget (although a quorum must be present to vote on other matters). The budget for Common Expenses shall be deemed ratified unless at that meeting Owners having sixty (60%) percent or more of the total voting interests of the entire membership vote to reject such budget. Notwithstanding the foregoing, in the event the proposed budgets are disapproved or in the event the Association fails for any reason to determine the annual budgets and to set the Assessments, then and until such time as the budgets and Assessment have been determined as provided herein, the budgets and Assessments will be the default budgets and default Assessments calculated in accordance with the foregoing Section of this declaration.

9.10. Determination of Default Budget and Default Assessments. Upon the failure of the Association to adopt a budget, the default budgets and default Assessments will be increased to one hundred fifteen (115%) percent of the then-current budgets and Assessments, provided however that the default budget and the default Assessments shall in no event be less than necessary to provide for the taxes and insurance in connection with the Common Areas.

9.11. Certificate of Payment. The Association shall, within ten (10) business days after receipt of a written request from an Owner, Mortgagee or the Owner's authorized agent, and for a reasonable charge, furnish a certificate setting forth whether the Assessments and other charges against a specified Lot have been paid. If such certificate states that an Assessment has been paid, such certificate shall be conclusive evidence of payment.

9.12. Monetary Defaults and Collection of Assessments.

9.12.1. Late Fees and Interest. If any Assessment is not paid within thirty (30) days after the due date, the Association shall have the right to charge the defaulting Owner a late fee of ten (10%) percent of the amount of the Assessment or Twenty (\$20.00) Dollars, whichever

is greater, plus interest at the rate of 18% per year or the highest rate of interest allowed by the Act (whichever is lower) from the due date until paid. If there is no due date applicable to any particular Assessment, then the Assessment shall be due twenty (20) days after written demand.

9.12.2. Effect of Non-Payment; Lien Rights. No Owner shall be exempt from liability for any Assessment for reason of non-use of the Common Area or such Owner's Lot, or abandonment or leasing of such Owner's Lot, or unavailability of the use or enjoyment of the Common Area. All Assessments and other charges shall be established and collected as provided in this Declaration. All Assessments and other charges remaining unpaid for thirty days (30) days or longer, together with late charges, interest, and the costs of collection thereof, including attorneys' fees, shall be charged on the Owner's Lot as provided in §3-116 of the Act and, upon filing of a claim of lien in the office of the clerk of Superior Court of the County in the manner provided in §3-116(g), shall be a continuing lien upon the Lot against which such Assessment is made until paid in full. The Association shall be obligated to comply with all conditions precedent set forth in the Act to filing a claim of lien for Assessments. The lien may be foreclosed by the Association in any manner permitted under the Act or by law. In the event a holder of a First Mortgage or other purchaser of a Lot obtains title thereto as a result of a foreclosure of a First Mortgage pursuant to a power of sale or judicial foreclosure, or by deed in lieu of foreclosure, such purchaser and its successors and assigns shall not be liable for the Assessments and other charges against such Lot which became due prior to the acquisition of title to such Lot by such purchaser. Each Assessment and other charges due hereunder, together with late charges, interest, the costs of collection thereof, including attorneys' fees, shall also be the personal obligation or corporate obligation of each Person who was Owner of the Lot at the time when the Assessment or other charge first became due and payable and may be collected by appropriate action at law. If more than one Person held an ownership interest in the Lot at the time the Assessment or other charge first became due, then each Person shall be both jointly and severally liable. An Owner's personal obligation for payment of such Assessments and other charges shall not become the personal obligation of a subsequent Owner unless expressly assumed by the subsequent Owner, although the lien shall continue against the Lot until the amounts due are paid. Upon payment in full of all sums secured by the lien, the Person making the payment is entitled to a satisfaction of the lien. Notwithstanding the foregoing, no lien shall attach hereunder to a Lot owned by Declarant during the Declarant Control Period.

9.12.3. Collection and Foreclosure. The Association may bring an action in its name to foreclose its lien for Assessments in the manner a mortgage on real property is foreclosed pursuant to a power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes. If the debt consists solely of fines imposed by the Association or of service, collection, consulting or administrative fees not authorized in this Declaration, then the Association may bring an action in its name to foreclose its lien for such Assessments by judicial foreclosure as provided in Article 29A of Chapter 1 of the North Carolina General Statutes. The Association may also bring an action at law against the Owner(s) personally obligated to pay the Assessments due to recover a money judgment for such unpaid Assessments without waiving any claim of lien. The Association shall have such other remedies for collection and enforcement of Assessments as may be permitted by applicable law. All remedies are intended to be and shall be cumulative. The Association may pursue one or more of such remedies at the same time or

successively. The Owner shall be liable for all costs and expenses incurred in connection with the collection of the Assessments, and the filing, administration, enforcement, or foreclosure of the lien, including reasonable attorneys' fees and costs and costs of the action, and all sums advanced and taxes paid and payments made on account of superior Mortgages, liens or encumbrances in order to preserve and protect the lien. In the event a judgment is obtained, such judgment shall include all amounts provided above. The Association shall also be entitled to attorneys' fees and costs in connection with any alternative dispute resolution or appellate proceedings. The Association is authorized to settle and compromise the lien if the Association deems a settlement or compromise to be in the best interest of the Association.

9.12.4. Rental and Receiver. The Association shall be entitled to the appointment of a receiver to collect the rent (1) if the Unit is leased during the pendency of the foreclosure; or (2) if an Owner, any household member or Permitted User remains in possession of a Unit after the claim of lien against a Unit is foreclosed, and the court in its discretion requires the Owner to pay a reasonable rental for the Unit.

9.12.5. Suspension of Rights of Delinquent Owner. In addition to any other rights and remedies as set forth in this Article, in the event an Owner is delinquent in payment of Assessments or other monetary obligations for more than thirty days (30) days, the Association may suspend: (1) the voting rights of such Owner, and (2) the right of such Owner, its household members, Permitted Users, licensees or invitees to use the Common Areas until such time the Owner pays in full all obligations due to the Association, including delinquent Assessments. Prior to suspension of the foregoing rights, the Community shall give the Owner written notice of the delinquency, an opportunity to be heard, to present evidence and written notice of the decision in accordance with this Declaration.

9.13. Collection of Assessments. The Association shall have the legal duty and responsibility to collect and enforce payment of the Assessments owed by every Owner. Failure to send or deliver bills or notices of Assessments shall not relieve Owners from their obligations hereunder. All Assessments owed by the Owner of a Lot, together with late fees, interest, penalties, fines, attorneys' fees and other sums provided for herein shall accrue to the benefit of the Association.

9.14. Priority of Liens. To the extent allowed by law, the Association's lien shall relate back to the recording of this Declaration in the Registry. Any unpaid Common Assessments or Special Assessments for Common Expenses which cannot be collected as a lien against any Lot by reason of the provisions of this Section shall be deemed to be a Common Expense divided among, payable by and a lien against all Lots, including the Lot as to which the foreclosure (or deed in lieu of foreclosure) took place.

9.15. Use of Common Areas. In addition to the rights of collection of Assessments stated in this Article, any Person acquiring title to or any interest in a Lot as to which the Assessments are delinquent, other than Persons acquiring title by foreclosure of a First Mortgage pursuant to a power of sale or judicial foreclosure or by or deed in lieu of foreclosure, shall not be entitled to use or enjoy the Common Areas except for the purpose of accessing the Lot until

such time as all unpaid and delinquent Assessments due and owing from the selling Owner have been fully paid.

9.16. Association Funds. Amounts collected by the Association shall be held by the Association in accounts clearly identified as the Association's and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks and financial institutions, the deposits of which are insured by an agency of the United States.

## 10. CERTAIN RESTRICTIONS, RULES AND REGULATION.

10.1. Applicability. The provisions of this Article shall apply to all of the Lots and Common Areas and the use thereof but shall not apply to the Declarant or its designees.

10.2. Land Use and Building Type. Each Lot and Unit constructed thereon shall be built and used solely for residential purposes in accordance with the applicable zoning designation of such Lot and Unit, except for such ancillary uses permitted by applicable zoning codes and other laws and ordinances.

10.3. No Further Subdivision. Neither any Lot nor the Common Areas may be further subdivided.

10.4. Easements. Easements for installation and Maintenance of utilities are reserved as shown on the recorded Subdivision Plats covering the Property and as provided herein. The area of each Lot covered by an easement and all Improvements in the area shall be Maintained continuously by the Owner of the Lot, except as provided herein to the contrary and except for installations for which a public authority or utility company is responsible. The appropriate utility companies, telecommunications providers, the Association, and Declarant and its affiliates, and their respective successors and assigns, shall have a perpetual easement for the Maintenance of water, sewers, storm sewers, electric, gas, telecommunications and cable television lines, cables and conduits, under and through the utility easements as shown on a Subdivision Plat or otherwise recorded in the Registry.

10.5. Nuisances. No noxious, offensive or unlawful activity shall be carried on upon the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to other Owners.

10.6. Temporary Structures. No structure of a temporary character, trailer, mobile home or recreational vehicle shall be permitted on any Lots at any time or used at any time as a residence, either temporarily or permanently.

10.7. Signs. No sign, poster, display or billboard of any kind shall be displayed to the public view on any Lot, entryways or outside walls of any Unit, any fences on the Property, any Common Areas, dedicated areas, or any vehicles within the Property, except for the following signs: (1) any signs regardless of size used by the Declarant and their respective affiliates or as

authorized by Declarant; (2) one sign per Lot not to exceed 144 square inches indicating that the Unit is monitored by an alarm or monitoring service; or (3) not more than two (2) “political signs” per Lot as defined in §3-121 of the Act, the maximum dimensions of any such sign shall not exceed 24 inches by 24 inches. Political signs may not be displayed on a Lot earlier than 45 days before the applicable election and must be removed not later than 7 days after the election day. No sign of any kind which shall be visible outside the Unit shall be permitted inside a Unit. During the Declarant Control Period, Declarant and its Permittees may place any signs on the Property in connection with construction, sales, leasing, resales and other marketing activities.

10.8. Pets, Livestock and Poultry. Only household pets may be kept on any Lot or in any Unit and shall be allowed to remain only if such pet is (1) permitted to be so kept by applicable laws and regulations, (2) not left unattended on patios or terraces, (3) not kept or maintained for commercial purposes or breeding, and (4) generally, not a nuisance to Owners or Permitted Users of other Units or Lots. No wildlife, livestock or poultry of any kind shall be kept on any Lot or any Common Areas. Any exception to the pet restrictions set forth in this Declaration must be approved by the Association upon application by the Owner and made in writing by the Association, shall apply only to the specific pet and the justification for the exception and the Owner to which it applies must be set forth in writing and become a part of the official records of the Association. In making a determination the Association may approve, deny or approve with conditions and place restrictions on the keeping of wildlife, livestock or poultry on any Lot. The keeping of any wildlife, livestock or poultry on the Conservations Area shall also require the express written approval of the Davidson Land Consecancy.

All pets must be kept on a leash of a length that affords reasonable control over the pet at all times when outside the Unit. No household pets shall be permitted to leave excretions on any Common Areas, and Owners shall be responsible to clean up any such improper excretions. For purposes hereof, “household pets” means dogs, cats and other animals expressly permitted by the Association, if any. Nothing contained herein shall prohibit the keeping of fish or domestic (household type) birds, as long as the latter are kept indoors and do not become a source of annoyance to neighbors. By acceptance of a deed, any Owner who keeps or maintains (or whose Permitted User keeps or maintains) a pet within the Property agrees to indemnify and hold harmless Declarant and all other Owners from and against any loss, claim or liability of any kind or character whatsoever arising by reason of keeping or maintaining such pet within the Property. Pets shall also be subject to all applicable rules.

10.9. Commercial Trucks, Trailers, Campers and Boats.

10.9.1. Within Lots. No campers, mobile homes, motorhomes, boats, house trailers, boat trailers, or trailers of every other description shall be permitted to be parked or to be stored at any place on any Lot, except (1) during the periods of approved development or construction on a Lot, (2) when stored out of view in an enclosed garage on such Lot, or (3) as permitted by Declarant. No truck, sports utility vehicle, van, commercial vehicle or other vehicle shall be permitted to be parked or stored at any place on any Lot unless such vehicle is 3 tons or less and the exterior of such vehicle contains no sign, lettering, graphics or logo referring to any commercial undertaking or enterprise. These restrictions on parking shall not apply to temporary

parking of trucks and commercial vehicles, such as for pick-up, delivery, and other commercial services or to law enforcement vehicles of an Owners or Permitted User of a Unit. No vehicle which is unlicensed or inoperable may be kept or stored on the Property except out of view in an enclosed garage on a Lot. No repair work to any type of motor vehicle, boat or trailer shall be conducted on any Lot other than minor repairs, cleaning or waxing which is completed in less than 24 hours.

10.9.2. Common Areas. Restrictions on commercial vehicles, campers, mobile homes, motorhomes, boats, house trailers, boat trailers, or trailers (particularly as to the parking or storage thereof) shall be imposed and enforced by the Association; provided, however, that no commercial vehicles, campers, mobile homes, motorhomes, boats, house trailers, boat trailers, or trailers shall be parked or stored within the Common Areas.

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the rules and regulations now or hereafter adopted may be towed at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of two (2) or more hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. An affidavit of the Person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

10.10. Garbage and Trash Disposal. No garbage, refuse, trash or rubbish shall be deposited except in containers designate for such purpose. The requirements from time to time of the applicable governmental authority, trash collection company or the Association for disposal or collection of waste shall be complied with. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and screened from public view.

10.11. Seasonal or Holiday Decorations. Any seasonal or holiday decorations (e.g., Christmas trees and lights, pumpkins, Easter decorations) shall not be visible from the street except for the period of time from thirty (30) days before such season or holiday through thirty (30) days after such season or holiday. Any Owner may apply for a variance from this provision, and the Declarant during the Declarant Control Period and thereafter the Association has the sole discretion to determine what is a reasonable period of time for such variance. The Association shall have the right to require an Owner or Permitted User to remove seasonal or holiday decorations which create a nuisance in the reasonable judgment of the Association.

10.12. Exterior Antennas, etc. No exterior antenna, satellite dishes or similar equipment shall be installed on any Lot, Common Area or Improvement thereon, unless such antennae, satellite dishes and similar equipment are not visible frm any street or are approved by the Association. No radio or shortwave operations of any kind shall be permitted to operate on any Common Areas or any Unit.

10.13. Solar Panels. No solar panels or other equipment shall be installed on a Lot that,

after installation, are visible by a person on the ground: (1) on the façade of a structure that faces areas open to common or public access; (2) on a roof surface that slopes downward toward the same areas open to common or public access that the façade of the structure faces; or (3) within the area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those areas of common or public access faced by the structure.

10.14. Games and Play Structures. No play or game structures including basketball hoops or tennis courts shall be visible from any street unless approved in advance by the Association. Additionally, no platform, doghouse, playhouse, storage shed or auxiliary structure of any kind or nature shall be constructed on any part of a Lot unless approved in advance by the Association.

10.15. Fences and Walls. The composition, location, color and height of any fence or wall to be constructed on any Lot shall be consistent with the material used in the surrounding buildings and other fences, if any, and the location of fences shall not interfere with the Common Areas. No chain link fences shall be permitted on any Lot or portion thereof.

10.16. Utility Connections. Permanent building connections for all utilities installed after a Unit is conveyed to a consumer for residential purposes, including water, sewer, electric, gas, telecommunications and television, shall be run underground from the proper connecting points to the structure in such a manner to be acceptable to the County and applicable utility. The foregoing shall not apply, however, to transmission lines, transformers and other equipment installed by public utility companies.

10.17. Additional Use Restrictions. The Association may adopt such additional use restrictions, rules or regulations, applicable to all or any portion of the Property.

## 11. COMPLIANCE AND ENFORCEMENT.

11.1. Compliance. Every Owner, and its Permitted User, Tenant, Guest, invitee, officer, employee, contractor, subcontractor and agent shall comply with this Declaration.

11.2. Enforcement. Failure to comply with any of the provisions hereof or the rules and regulations of the Association shall be grounds for immediate action which may include an action to recover sums for damages, injunctive relief or any combination thereof.

11.3. Individual Assessments; Suspension of Rights. In addition to all other remedies and to the maximum extent lawful, the Association shall have the right to (1) impose Individual Assessments for fines on an Owner for failure of an Owner or its Permitted Users, Tenants, Guests, invitees, officers, employees, contractors, subcontractors and agents to comply with this Declaration or with any rule or regulation, or (2) suspend the rights of an Owner whose Assessments are more than 30 days delinquent; provided that no suspension of rights shall occur

or Individual Assessments for fines shall be imposed without first providing notice of the charge, opportunity to be heard and to present evidence, and notice of the decision as required by §3-107.1 of the Act.

11.3.1. Payment of Individual Assessments. Individual Assessments shall be paid not later than fifteen (15) days after notice of the imposition or assessment of the fines.

11.3.2. Collection of Individual Assessments. As to Owners, to the extent not prohibited by law, Individual Assessments shall be treated as a lien for Assessments subject to requirements of the Act for perfecting a lien and the provisions of this Declaration for the collection of Assessments.

11.3.3. Application of Individual Assessments. All monies received from Individual Assessments shall be allocated as determined by the Association.

11.3.4. Non-exclusive Remedy. The imposition of an Individual Assessment or suspension of rights shall not be construed to be exclusive and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any Individual Assessment paid by the offending Owner shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner.

12. LEASING AND OCCUPANCY OF UNITS. No Owner other than the Declarant may occupy or lease a Unit except by complying with the following provisions:

12.1. Residential Use Only. Use and occupancy of the Units is restricted to residential uses only. These use restrictions shall not be construed in such a manner as to prohibit an Owner or Permitted User from maintaining his personal professional library, keeping his personal business or professional records or accounts or handling his personal, business or professional telephone calls, electronic transmissions or correspondence in and from his Unit to the extent permitted by applicable law; provided such activities do not interfere with the quiet enjoyment of other Units. Notwithstanding the foregoing, the Declarant shall be permitted to use Units which such entity owns or leases as model homes, as sales, leasing, development, marketing, construction, management or other offices.

12.2. Leased Units. An Owner may lease a Unit, provided that any such lease must be for not less than twelve (12) consecutive months. Only entire Units may be leased under one lease which shall at all times be subject to the terms and conditions of this Declaration. No subleases or assignments of leases of a Unit are allowed. All leases shall be in writing and shall contain the following provisions:

12.2.1. Each Tenant shall comply, and all leases shall require the Tenant to comply, with the covenants, terms, conditions and restrictions of this Declaration and the rules and regulations of the Association. A violation of any of the terms of this Declaration or any rules and regulations of the Association shall constitute a material breach of the lease and shall constitute grounds for damages, termination of the lease and eviction by the Association.

12.2.2. This Declaration must be given to the Tenant by or on behalf of the Owner at or before the commencement of the lease term; provided, however, that such Tenant's obligations under this Section shall not be affected by the failure to receive this Declaration. All tenancies are hereby made subordinate to any lien filed by the Association, whether prior or subsequent to such lease.

12.2.3. If an Owner fails to include any of the foregoing provisions in any lease, the provisions shall be deemed to be included and part of the lease.

12.2.4. Prior to the time a Tenant takes possession of the Unit, the Owner shall furnish the Association with a copy of the lease for the Unit. Each Owner or Tenant of a leased Unit shall be obligated to deliver a copy of the lease to the Association within seven (7) days after request by the Association.

12.2.5. No more than one family shall occupy a Unit as a principal residence at any time.

12.2.6. No Unit shall be leased or rented for hotel or transient purposes, including, but not limited to, short term rentals promoted on websites such as Airbnb, VRBO or similar.

12.2.7. No Unit shall be leased or rented to any person who is registered (or who is required to be registered) on any sex offender registry maintained in any jurisdiction.

12.3. Owner Responsible for Conduct of Permitted Users. The Owner of a Unit is responsible for all conduct of each Permitted User of the Unit, including any claim for injury, loss or damage to Persons or property caused by the acts or omissions of the Owner's Permitted User(s). Each Owner shall be jointly and severally liable with the Permitted User to the Association for any amount which is required by the Association to repair any injury, loss or damage to the Common Area resulting from acts or omissions of the Permitted User and to pay any claim for injury, loss or damage to persons or property caused by the acts, omissions or negligence of the Permitted User, and the Association may levy an Individual Assessment against the Unit therefor.

12.4. Use of Common Areas. When a Unit is leased, the Permitted User shall have all use rights in Common Areas otherwise readily available for use generally by Owners, and the Owner of the leased Unit shall not have such rights, except as a Guest of another Owner. Nothing herein shall interfere with the access and eviction rights of the Owner as a landlord pursuant to North Carolina law. The Association shall have the right to adopt rules to prohibit dual usage by an Owner and a Permitted User of Common Areas.

12.5. Declarant's Use. The Declarant, its successors and assigns, shall be permitted to use Units which the Declarant owns, leases or manages for any activities relating to marketing, selling, purchasing, reselling, leasing or promoting those Units as well as for models, sales, resales, leasing, and management offices, overnight accommodations by its designees or any other lawful purpose.

### 13. ADDITIONAL RIGHTS OF ELIGIBLE MORTGAGEES.

13.1. Notice to Eligible Mortgagees. Eligible Mortgagees shall be entitled to timely written notice (upon written request) of:

13.1.1. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

13.1.2. Any alleged default by any Owner whose Lot is subject to a First Mortgage it holds or has insured or guaranteed, if the default is not cured within thirty (30) days after notice of the default to the Owner;

13.1.3. Any condemnation or casualty loss which affects a major portion of the Common Areas;

13.1.4. A copy of, within reasonable time after it requests it, financial statement of the Association for the immediately preceding Fiscal Year; and

13.1.5. Any proposed action by the Association which would require hereunder the consent or approval of a specified percentage of Eligible Mortgagees.

13.2. Approval of Eligible Mortgagees. After the expiration of the Declarant Control Period, unless at least a majority of the Eligible Mortgagees encumbering Units have given their prior written approval, the Association shall not:

13.2.1. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer Common Areas or any other real property which is owned, directly or indirectly, by the Association. The granting of easements or relocation of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this subsection.

13.2.2. Change the method of determining the obligations, Assessments, dues or other charges which may be levied against a Unit;

13.2.3. Fail to maintain property insurance on insurable improvements on the Common Area on a current replacement cost basis in an amount not less than eighty (80%) percent of the full insurable replacement value; or

13.2.4. Use the proceeds of any property insurance policy covering losses to any part of the Common Area for other than the repair, replacement or reconstruction of the damaged Improvements.

13.3. Payment of Taxes and Insurance Premiums. Eligible Mortgagees, jointly or singularly, may pay taxes or other charges which are in default and which have or may become a charge or lien against any of the Common Area and may pay delinquent premiums on property insurance policies or secure new property insurance coverage upon the lapse of a policy covering the Common Areas. The Eligible Mortgagees making such payments shall be owed immediate reimbursement therefor by the Association.

14. CONSTRUCTION STANDARDS. All Lots shall be subject to the following minimum standards for improvements on each Lot:

14.1 There shall be a maximum of one primary residence permitted on each Lot;

14.2 Construction of a home on each Lot shall commence (defined as the pouring of a foundation) within twelve (12) months of the purchase of the lot from Declarant and shall be completed (defined as issuance of certificate of occupancy and installation of landscaping) within eighteen (18) months of commencement, provided however that the Association, upon application from an Owner upon good cause shown, may extend or waive the home construction requirement;

14.3 No home shall be less than 3,000 square feet of heated living area in size;

14.4 There shall be no modular, premanufactured or mobile homes constructed, erected or permitted on any Lot;

14.5 Any auxiliary buildings, such as but not limited to, detached garages, shops outbuildings, pool house or other, shall be constructed using the same primary exterior materials, including but not limited to the siding, roof, windows, colors and materials, as the principal residence;

14.6 The architectural design, style, materials, colors and site plan for the construction of the initial improvements for each Lot shall be subject to the review and approval of the Declarant.

15. AMENDMENTS. This Declaration may be amended as follows:

15.1. By the Declarant. During the Declarant Control Period, this Declaration may be amended, changed or added to at any time and from time to time by an instrument executed by Declarant and recorded in the Registry without the requirement of the consent of the Association or any of the Owners or their mortgagees; provided, however, the Owners shall, forthwith upon request of the Declarant, join in any such amendments or modifications and execute such instruments to evidence such joinder and consent as the Declarant shall, from time to time, request.

15.2. By the Owners. After the Declarant Control Period, this Declaration may be amended, changed or added to at any time and from time to time by the affirmative vote or written agreement signed by Owners of Lots to which at least sixty-seven percent (67%) of the votes are allocated and, to the extent not prohibited by law, and the affirmative vote or written approval of the Declarant so long as the Declarant is a Member. In order for a written agreement to be valid, it must be signed by all of the Owners of the Lot.

15.3. Scrivener's Errors. Amendments for correction of scrivener's errors or other nonmaterial changes may be made by the Declarant alone so long as the Declarant owns any portion of the Community, and thereafter by an officer of the Association without the need for approval of the Owners.

15.4. Limitations on Amendments Affecting Declarant Rights. No amendment shall be permitted which changes the rights, privileges and obligations of the Declarant without the prior written consent of the Declarant. Nothing contained herein shall affect the right of the Declarant to make whatever amendments or Supplemental Declarations are otherwise expressly permitted hereby without the consent or approval of any Owner or Mortgagee.

15.5. Mortgagee's Consent. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to mortgagees or make any materially adverse change in the sections hereof entitled "Insurance for Common Areas" unless a majority of the Eligible Mortgagees shall join in the amendment. Except as specifically provided herein, the consent and/or joinder of any lien or mortgage holder on a Unit shall not be required for the adoption of any amendment to this Declaration and, whenever the consent or joinder of a lien or mortgage holder is required, such consent or joinder shall not be unreasonably withheld or delayed. Any Eligible Mortgagee or other mortgagee receiving such request shall be required to consent to or disapprove the matter for which the consent or approval is requested in writing within sixty (60) days after the Eligible Mortgagee or other mortgagee receives such request. If such response is not timely received, the Eligible Mortgagee or other mortgagee shall be deemed to have consented to and approved the matter for which such approval or consent was requested. Such consent or approval given or deemed to have been given, where required, may be evidenced by an affidavit signed by an officer of the Association, which affidavit, where necessary, may be recorded in the Register's Office for the County. Such affidavit shall be conclusive evidence that the applicable consent or approval was given as to the matters therein contained.

15.6. Effective Date. Amendments to this Declaration are valid from the later of the time of recording in the Registry or such later date specified in the amendment.

15.7. Challenge. No action to challenge the validity of an amendment adopted pursuant to this Article may be brought more than one (1) year after the amendment is recorded.

16. EFFECT AND DURATION OF COVENANTS. This Declaration shall run with, bind, benefit and burden all of the Property, and shall run with, bind, and be enforceable by and against the Declarant, the Association, every Owner, and the respective legal representatives, heirs, successors and assigns of each, for a term of thirty (30) years from the date this Declaration is recorded. After that time they shall be automatically extended for successive periods of ten (10) years each unless an instrument has been recorded in which eighty (80%) percent of the then Owners and majority of the Eligible Mortgagees agree by signing it to revoke this Declaration in whole or in part.

17. GENERAL PROVISIONS.

17.1. Exculpation. No personal liability is assumed by nor shall at any time be asserted or enforceable against the Declarant or its affiliates on account of any representation, covenant, undertaking or agreement of the Declarant or its affiliates contained in this Declaration either expressed or implied. All such personal liability, if any, is expressly waived and released by the Association, the Owners and by all Persons claiming by, through or under the Owners.

17.2. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the Person who appears as Member or Owner on the records of the Association at the time of such mailing. It shall be the duty of each Owner to keep the Association y advised of his name and addresses and any changes therein.

17.3. Severability. Invalidation of any part, clause or word of this Declaration, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

17.4. Performance of Association's Duties by Declarant. Declarant shall have the right, but not the obligation, from time to time at its sole discretion, to perform at Declarant's expense the duties and obligations required hereunder to be performed by the Association.

17.5. Conflict. The provisions of this Article control over any inconsistent provisions of any other portion of this Declaration, any Supplemental Declaration or any other documents. In the event of a conflict between any of the documents, the following order of precedence shall apply: First, this Declaration (except as to matters of compliance with the North Carolina General Statutes, in which event the NCGS shall control), Second, rules governing the Association, including the Governing Documents; Third, rules and regulations of the Association.

17.6. Effective Date. This Declaration shall become effective upon its recordation in the Registry.

17.7. Standards for Consent, Approval, Completion, Other Action and Interpretation. Whenever this Declaration shall require the consent, approval or other action by the Declarant or its affiliates, the Association or Eligible Mortgagee, such consent, approval or action may be withheld in the sole and reasonable discretion of the party requested to give such consent or approval or take such action.

17.8. Easements. If any easement provided for in this Declaration fails because at the time of creation there may be no grantee having the capacity to take and hold such easement, then any such grant of easement shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the original parties to whom the easements were originally to have the benefit of such easement. The Owners hereby designate the Declarant and the Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such Owners' behalf as may hereafter be required or

deemed necessary for the purpose of later creating such easement as it was intended to have been created herein.

17.9. Attorneys' Fees; Enforcement Costs. Unless limited by the Act, in the event that any legal action or other proceeding is brought for the enforcement of this Declaration, including because of any Assessments, fines, or any alleged dispute, breach, default or misrepresentation in connection with any provisions of this Declaration, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, court costs and all expenses even if not taxable as court costs (including all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

17.10. Principles of Interpretation and Definitions. In this Declaration, unless the context requires otherwise: (1) the singular includes the plural, and the plural includes the singular; (2) the pronouns "it", "its", "he", "his", "she", "her", "they" and "their" include the masculine and feminine; (3) references to contracts and agreements shall be deemed to include all amendments thereto; (4) references to an "Article", "Section", "section", or "paragraph" shall mean an article or section of this Declaration; (5) headings and titles of sections, paragraphs, and articles are for convenience only and shall not be construed to affect the meaning of this Declaration; (6) the word "shall" is mandatory; and (7) all exhibits, attachments, or documents attached or referred to in this Declaration are incorporated by reference as if fully set forth herein.

17.11. Litigation. The Association may not commence any litigation, arbitration, legal action or any other legal proceeding against any non-Owner or Declarant, unless two-thirds (2/3) of the Members vote to approve such proceeding.

[signature page follows]

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first above written.

DECLARANT:

RISE DAVIDSON, LLC

By: \_\_\_\_\_  
Name: Robert Maynard, Manager

STATE OF NORTH CAROLINA    )  
COUNTY OF MECKLENBURG    )

I, \_\_\_\_\_, a Notary Public of Mecklenburg County, State of North Carolina certify that Robert Maynard, as Manager of Rise Davidson, LLC, (the "Signatory"), appeared before me this day and that Signatory, being authorized to do so, acknowledged the execution of the foregoing instrument.

I certify that the Signatory personally appeared before me this day, and *(check one of the following)*:

\_\_\_\_\_ (I have personal knowledge of the identity of the Signatory); **or**

\_\_\_\_\_ (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of: *(check one of the following)*:

\_\_\_\_\_ a driver's license *or*

\_\_\_\_\_ in the form of \_\_\_\_\_); *or*

\_\_\_\_\_ (a credible witness has sworn to the identity of the Signatory).

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

☞ [NOTARY SEAL] (MUST BE FULLY LEGIBLE)

Exhibit A

DRAFT

### Consent of Lien Holder

[Legal name of bank] ("Lien Holder"), is the current holder of a [Title of deed of trust instrument] from [Name of borrower], a North Carolina limited liability company ("Borrower") in favor of Lien Holder dated [Date on instrument] and recorded [Date recorded] with the [County] County, North Carolina Register of Deeds at Book [ ], Page [ ] (the "Deed of Trust"). Lien Holder hereby consents to the grant and recordation of that certain Declaration of Covenants, Restrictions and Easements for [Community Name] (the "Declaration") by Borrower encumbering the Property described in the Deed of Trust, and joins in the execution hereof solely as Lien Holder and hereby does agree that in the event of the foreclosure of the Deed of Trust, or a deed in lieu of foreclosure of the Property described in the Deed of Trust under judicial proceedings, the Declaration shall survive any foreclosure and sale of the Property, the Property shall be sold subject to said Declaration, and all rights and interests granted thereby shall be unaffected.

SIGNED AND EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[Legal name of bank]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a Notary Public of \_\_\_\_\_ County, State of \_\_\_\_\_  
certify that \_\_\_\_\_, (the "Signatory"), appeared before me this day and that  
Signatory, being authorized to do so, acknowledged the execution of the foregoing instrument.

I certify that the Signatory personally appeared before me this day, and *(check one of the following)*:  
\_\_\_\_ (I have personal knowledge of the identity of the Signatory); **or**  
\_\_\_\_ (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal  
identification with the Signatory's photograph in the form of: *(check one of the following)*:  
\_\_\_\_ a driver's license *or*  
\_\_\_\_ in the form of \_\_\_\_\_); *or*  
\_\_\_\_ (a credible witness has sworn to the identity of the Signatory).

Sworn to and subscribed before me this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

☞ [NOTARY SEAL] (MUST BE FULLY LEGIBLE)