AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR DULLES FARMS

This **AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, and RESTRICTIONS** (~~this~~ "Declaration") is made and entered into this ~~29th~~ ____day of ~~January~~ ____, 2026~~09~~, by the ~~by~~ ~~by and among DULLES FARMS L.C., a Virginia limited liability company ("Declarant"); WINCHESTER HOMES INC., a Delaware corporation ("Winchester"), and the~~ **DULLES FARMS COMMUNITY ASSOCIATION, INC.**, a Virginia nonstock corporation (the "Association").

RECITALS

WHEREAS, the Declarant, Dulles Farms L.C., ~~intends to~~ created Dulles Farms ~~a planned community to be known as "Dulles Farms"~~ in order to provide for the preservation and enhancement of property values, the maintenance and care of common areas and other amenities, and the orderly development and enjoyment of ~~Dulles Farms~~the planned community; and,

~~**WHEREAS,** Winchester has executed, acknowledged and entered into this Declaration for the purposes of subjecting certain real property designated as "Submitted Land" and described on Exhibit A attached hereto, together with such additions thereto as may be made in the manner provided hereinafter, to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration;~~

~~**WHEREAS,** the Declarant also desires to reserve the right to add the real property designated as Additional Land in the legal description attached as Exhibit B (and made a part hereof by this reference), as may be amended by the Declarant from time to time, and may hereafter decide to subject all or any portion of that Additional Land to the provisions of this Declaration, as amended from time to time.~~

~~**WHEREAS,** the Declarant deems it desirable and in the best interests of all the future owners of real estate subject to this Declaration to protect the value and the desirability of such real estate by providing for the development of such real estate in accordance with a common plan and the maintenance of certain shared facilities.~~

WHEREAS, to provide a means for meeting the purposes and intents set forth herein, the Declarant ~~has~~ caused the Association to be organized and incorporated as a nonstock corporation under the laws of the Commonwealth of Virginia~~.~~; and,

WHEREAS, on March 19, 2009, the Declarant recorded among the land records of Loudoun County, Virginia, the Declaration of Covenants, Conditions, and Restrictions for Dulles Farms, instrument number 20090319-0016275 (the "Original Declaration"); and,

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WHEREAS, the Members desire to amend and restate the Original Declaration as evidenced by the vote of the Members on ___, 2026; and,

NOW THEREFORE, in accordance with the Original Declaration, the Association hereby amends and restates in its entirety the Original Declaration as follows:

~~**NOW, THEREFORE**, the Declarant and the Association, with the consent of Winchester, hereby covenant and declare, on behalf of themselves and their respective successors and assigns, that from the date this Declaration is recorded, the real estate designated as Submitted Land in Exhibit A shall be held, conveyed, transferred, acquired and encumbered subject to the terms and provisions hereof, all of which shall run with the land and bind and inure to the benefit of all Persons who may now or hereafter own or acquire any right, title, estate or interest in or to any of such real estate, or who may now or hereafter occupy or enter upon any portion thereof, subject to the right of the Declarant or the Association to amend this Declaration in accordance with the provisions for amendment set forth herein. The Association joins in this Declaration for the purpose of accepting the rights, powers, responsibilities and obligations set forth herein.~~

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. Definitions. Terms used herein without definition shall have the meanings specified for such terms in Section 13.1-803 of the Act. Capitalized terms used herein shall have the meanings specified for such terms below.

"Act" means the Virginia Nonstock Corporation Act, Chapter 10 of Title 13.1 of the Code of Virginia (1950), as the same may be amended, supplemented or replaced from time to time.

~~***"Additional Land"*** means the real estate so designated in Exhibit B-1 through Exhibit B-4, as any of such Exhibits may be amended by the Declarant from time to time, which the Declarant has reserved the right to submit to the Declaration and to the jurisdiction of the Association pursuant to Section 4.1.~~

"Articles of Incorporation" means the Articles of incorporation for Dulles Farms Community Association, Inc. filed with the Virginia State Corporation Commission, as amended from time to time.

"Assessment Unit" means the base dollar amount used to calculate the assessment liability of each Lot.

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"**Assessments**" means the sums levied against the Lots to pay Common Expenses and other expenditures by the Association. Assessments include "Regular Assessments," "Special Assessments," "Individual Assessments," and "Telecommunication Assessments" as established in Article 56.

"***Association***" means the Dulles Farms Community Association, Inc. and, with respect to the rights, duties and obligations of the Association set forth in this Declaration, its successors and assigns.

"***Association Documents***" means collectively, the Articles of Incorporation and the Bylaws of the Association and this Declaration, all as they may be modified, amended or supplemented from time to time. Any exhibit, schedule, certification or amendment to any of the Association Documents is an integral part of that document.

"***Board of Directors***" or "***Board***" means the executive and administrative entity established by Article 5 of the Articles of Incorporation as the governing body of the Association.

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"***Builder***" means a Person ~~(other than the Declarant)~~ who is regularly in the business of purchasing and acquiring land for the purpose of constructing improvements thereon for resale or rental and who purchases a Lot or any portion of the Property in the ordinary course of such Person's business.

"***Bylaws***" means the Bylaws of the Association, as they may be modified, amended or supplemented from time to time.

"***Civic Lot***" means any Lot upon which the improvements or planned improvements are to be used and occupied primarily for a public purpose and owned by a governmental or nonprofit entity, including without limitation schools, fire and rescue stations, police stations, libraries, group homes, and parks. If a Civic Lot is no longer used and occupied for a public purpose and owned by a governmental or nonprofit entity or is used for residential (except for group homes) or commercial office purposes, then such Lot shall no longer be a Civic Lot and shall be treated as a Commercial Lot, a Multifamily Lot or a Single Family Lot, as may be appropriate.

"***Commercial Lot***" means any Lot upon which the improvements or planned improvements are to be used and occupied primarily for non-residential purposes, including without limitation offices, office buildings, commercial condominium units, day care centers (excluding nonprofit day care within a church), retail uses, restaurants, hotels, or similar non-residential uses.

"***Common Area***" means, at any given time, all of the Property other than Lots, then owned by the Association, or otherwise available to the Association for the benefit, use and enjoyment of the Owners; provided, however, that real estate located within the Property is not Common Area solely because it is burdened by an easement for utilities, landscaping, storm water management or signage or dedicated as a public street or roadway even though the Association may be obligated to provide Upkeep for such areas of the Property.

"***Common Expenses***" means all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation and maintenance of reserves pursuant to the provisions of the Association Documents. Except when the context clearly requires otherwise, any reference to Common Expenses includes Limited Common Expenses.

"***County***" means Loudoun County, Virginia. All references to approval by the County mean approval by the appropriate administrative agency or official of the County.

"***Covenants Committee***" means one or more of the committees that may be established pursuant to Article 8~~9~~ to assure that the Property and the improvements to be built and constructed thereon will be built and maintained in a manner consistent with the purposes and intents of this Declaration. ~~With respect to initial construction of any improvement at the Property, all references to the Covenants Committee shall mean the Initial Construction Committee.~~

~~***"Declarant"*** means **DULLES FARMS L.C.**, a Virginia limited liability company. Following recordation of a document assigning to another Person all or any portion of the rights reserved to the Declarant under the Association Documents, the term "Declarant" shall also mean or include such assignee.~~

~~***"Declarant Control Period"*** means the period beginning on the date of the incorporation of the Association and ending on the later of: (1) the twentieth anniversary of the date of recordation of this Declaration; (2) the fifth anniversary of the date of recordation of the most recent Supplementary Declaration adding Additional Land (whichever is later)(provided, however, that once the Declarant Control Period has expired, the recordation of a subsequent Supplementary Declaration shall not reinstate the Declarant Control Period; and provided, further, that if the Declarant is delayed in the improvement and development of the Property due to a sewer, water or building permit moratorium or other cause or event beyond the Declarant's control, then the aforesaid period shall be extended for the period of the delay or three years, whichever is less); or (3) the date that 75% of the Permitted Residential Dwelling Units on the Property and the Additional Land have been conveyed to Owners other than the Declarant or a Builder. The Declarant Control Period shall also end upon the date specified by the Declarant in a written notice to the Association stating that the Declarant Control Period shall end.~~

"***Declaration***" means this Declaration for Dulles Farms Community Association recorded among the Land Records, as it may be modified, amended, restated or supplemented from time to time and, except when the context clearly requires otherwise, any Supplementary Declarations.

"***Design Guidelines***" means the standards and guidelines ~~developed by the Declarant or the Initial Construction Committee or~~ as may be adopted by the Board of Directors.

~~***"Development Period"*** **means the period of time that the Declarant (or a lender holding special declarant rights) or any Builder is engaged in development or sales of the Property or the Additional Land or activities relating thereto, during which time the Declarant (or a lender holding special declarant rights) is entitled to exercise certain special declarant rights under the Association Documents as described in Article 5. When (i) all the Submitted Land is owned by Owners other than the Declarant (or a lender holding special**~~

~~declarant rights) or a Builder; and (ii) all the Additional Land is owned by Owners other than the Declarant (or a lender holding special declarant rights) or a Builder; and (iii) all of the bonds or other forms of surety held by a governmental agency with respect to the development and improvement of the Property and the Additional Land have been released, then the Development Period shall end.~~

~~*"Development Plans"* means the rezoning concept plan, general development plans, subdivision plans, and site plans for the Property and the Additional Land as approved by resolutions of the appropriate authorities of the County, as they may be further amended from time to time, and such additional development plans as may be approved by the County. Although the Declarant intends to develop the Submitted Land and Additional Land generally in accordance with the Development Plans, the Declarant and/or the Landowners reserve the right to modify the Development Plans subject only to the requirements and procedures of the County.~~

"*Duly Called Meeting*" and/or "*Duly Called Special Meeting*" means a meeting of the Owners/Members of the Association for which the Association gives notice in accordance with the Bylaws.

"*Gross Floor Area*" means the floor area contained within the buildings located on a Lot, calculated using the method used by the County building and development department or other applicable agency of the County. ~~Until all of the initial improvements on a Lot are completed, Gross Floor Area means the maximum Gross Floor Area permitted under applicable zoning requirements with respect to such Lot.~~ At such time as all initial improvements on a Lot are completed, Gross Floor Area shall mean the actual Gross Floor Area constructed within a Lot as reflected on the certificate of occupancy or occupancy permit issued for such improvements.

~~*"Landowners"* means the owners of the Submitted Land and the Additional Land: TWO GREENS/KIRKVEST LLC., a Virginia limited liability company, LOYALTY ASSOCIATES, L.C., a Virginia limited liability company, GUM SPRINGS ASSOCIATES, L.C., a Virginia limited liability company, TWO GREENS/BRADDOCK LLC, a Virginia limited liability company, WINCHESTER HOMES INC., a Delaware corporation, and GARY L. LAU and DEBORAH A. LAU.~~

"*Land Records*" means the land records maintained in the Clerk's Office of the Circuit Court of Loudoun County, Virginia.

"*Limited Common Expenses*" means Common Expenses benefiting one or more but fewer than all of the Owners and assessed against the Lots owned by the Owners intended to be benefited thereby as determined by the Board of Directors.

"*Lot*" means a portion of the Property designated as a separate subdivided lot of record or any other parcel of Submitted Land held in separate ownership (but not including any Common Area, common area or common elements of a Sub-association or real estate dedicated for public purposes), including any improvements. Lot shall also mean any condominium unit created in accordance with Chapter 19 of Title 55.1~~Chapter 4.2 of Title 55~~ of the Code of Virginia (1950),

as amended, or any cooperative unit created in accordance with Chapter 219 of Title 55.1 of the Code of Virginia (1950), as amended. The common elements of any condominium or cooperative are appurtenances to such condominium unit and/or cooperative unit and are part of the Lot. The common area owned by any Sub-association operating within the Property shall be treated as a Lot, except that no voting rights or Assessments are associated with such property, except as specifically stated otherwise.

"***Majority Vote***" means a simple majority (more than fifty percent (50%)) of the votes entitled to be cast in person or by proxy at a Duly Called Meeting at which a quorum is present. Any specified percentage vote means that percentage with respect to the total number of votes actually cast in person or by proxy at a Duly Called Meeting at which a quorum is present. Any vote by a specified percentage of the Board of Directors (or a Committee) means that percentage with respect to votes entitled to be cast by directors (or committee members) present at a duly held meeting of the Board of Directors (or committee) at which a quorum is present. Any vote of or approval (whether actual or presumed) by a specified percentage of the Mortgagees means a vote of or approval by the Mortgagees calculated according to the number of votes allocated to the Lots (or the Owners of the Lots) on which a Mortgage is held by a Mortgagee.

"***Managing Agent***" means the business enterprise or independent contractor~~, which may be affiliated with the Declarant,~~ with experience in community management and the competence and skills necessary to properly manage the Property, as may be employed or retained by the Board of Directors for the purpose of assisting the Board of Directors in managing and administering the Property on a day-to-day basis.

"***Mortgagee***" means an institutional lender (one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds or business trusts, including but not limited to real estate investment trusts, any other lender regularly engaged in financing the purchase, construction or improvement of real estate, or any assignee of loans made by such lender, or any combination of any of the foregoing entities) holding a properly recorded first priority mortgage or first priority deed of trust ("Mortgage") encumbering a Lot which has notified the Board of Directors of its status and has requested all rights under the Association Documents in writing pursuant to Section 123.2. Only for the purpose of the notice and inspection rights in Articles 123, 145 and 156 of the Declaration, the term "Mortgagee" shall also include the Federal Housing Administration ("FHA"), the Federal Home Loan Mortgage Corporation ("FHLMC"), Fannie Mae (formerly the Federal National Mortgage Association) ("FNMA"), the Department of Veterans Affairs ("VA"), the Government National Mortgage Association ("GNMA") and any other public or private secondary mortgage market agency participating in purchasing, guarantying or insuring Mortgages which has notified the Board of Directors of such participation in writing (together the "Secondary Mortgage Market Agencies").

"***Multifamily Lot***" means any Lot upon which the improvements or planned improvements are to be used as multiple dwellings and occupied primarily by persons other than the Owner of the Lot, including without limitation rental apartments.

"***Officer***" means any Person designated and appointed as an officer of the Association pursuant to the Bylaws.

"***Owner***" means one or more Persons who own a Lot in fee simple, but does not mean any Person having an interest in a Lot solely by virtue of a contract or as security for an obligation. The term "Owner" may be used interchangeably with the term "Member." Although the term "Owner" is also sometimes used to refer to a member of the Association, in the case of a Sub-association, the President of such Sub-association shall represent, vote and act on behalf of the Owners of the Lots subject to the Sub-association, unless the applicable Supplementary Declaration provides otherwise.

~~"***Permitted Residential Dwelling Units***" means the maximum number of permitted residential dwelling units that may be built and constructed on the Submitted Land and the Additional Land, based upon the Landowners reasonably contemplated rezoning and development of the Submitted Land and the Additional Land in a manner consistent with good land use and site engineering practices, as determined by the Declarant in its sole discretion.~~

"***Person***" means a natural person, corporation, limited liability company, partnership, association, trust or other entity capable of holding title or any combination thereof.

"***POA Act***" means the Virginia Property Owners' Association Act, Chapter 18 of Title 55.1~~Chapter 26 of Title 55~~ of the Code of Virginia (1950), as the same may be amended, supplemented or replaced from time to time.

"***Proffers***" means the Proffer Statement for C.D. Smith, ZMAP 2002-0003, dated October 11, 2005, the Proffer Statement for Kirkpatrick West, ZMAP 2002-0001, dated October 26, 2005, the Proffer Statement for Seven Hills, ZMAP 2005-0001, dated February 14, 2006, the Proffer Statement for Braddock Crossing, ZMAP 2003-0012, dated June 21, 2005, and the Proffer Statement for White Oak Crest, ZMAP 2006-0008, dated May 29, 2007, each as modified, amended or supplemented from time to time, as well as any proffer statements approved by the County for any Additional Land. ~~Although the Declarant intends to develop the Submitted Land and Additional Land generally in accordance with the Proffers, the Declarant and/or the Landowners reserve the right to modify the Proffers subject only to the requirements and procedures of the County.~~

"***Property***" means, at any given time, the Submitted Land and ~~together with~~ all improvements and appurtenances thereto now or hereafter existing.

"***Private Streets and Roadways***" means all streets, roadways, alleys, sidewalks, curbs, gutters and parking areas which are part of the Common Area, but not including streets and roadways dedicated to and accepted for public use.

"***Reserved Common Area***" means a portion of the Common Area for which the Board of Directors has granted a revocable license pursuant to Section 3.8~~9~~ for the exclusive use of Owners of one or more but fewer than all the Lots.

"***Respondent***" means the Owner or Sub-association charged with any violation of any of the Rules and Regulations adopted by the Board of Directors or the breach of any provision of the Association Documents.

"***Rules and Regulations***" means the rules and regulations governing the use, occupancy, operation, Upkeep and physical appearance of the Property as adopted from time to time by the Board of Directors.

"***Single Family Lot***" means any Lot upon which the improvements or planned improvements are to be used and occupied primarily as a residence, containing only one dwelling and, unless otherwise specified, including detached or semi-detached homes, townhouses, residential condominium units, and residential cooperative units; provided, however, that some Single-Family Lots may contain areas used for office, retail or other non-residential uses.

"***Sub-association***" means any owners association, condominium unit owners association, or cooperative association subject to the Declaration and governing some but less than all of the Property pursuant to covenants recorded among the Land Records and representing Owners of Lots located within the Sub-association.

"***Submitted Land***" means the real estate designated as such on Exhibit A to the Declaration and all real estate which is from time to time submitted to the Declaration and subjected to the jurisdiction of the Association. Submitted Land includes Common Area and Lots but it does not include improvements or appurtenances thereto.

"***Supplementary Declaration***" means any declaration: (i) submitting real estate to the terms of the Declaration and subjecting such real estate to the jurisdiction of the Association, whether or not such Supplementary Declaration contains additional provisions reflecting the unique characteristics of the real estate being submitted, or (ii) submitting a portion to each supplementary covenants in accordance with the provisions of Article 4 of the Declaration. A Supplementary Declaration may be a part of a deed of subdivision.

"***Telecom Agreement***" shall have the meaning set forth in Section 15~~6~~.1 of this Declaration.

"***Telecom Charges***" shall mean any fee or Assessment charged by the Association, a Telecom Provider and/or any designee for providing Telecom Services to the Association and/or the Owners.

"***Telecom Provider***" shall mean any Person engaged by or in privity of contract with ~~the Declarant,~~ the Association~~,~~ and/or all of the Owners to provide telephone, cable television, digital video services, electronic security services or devices, Internet access and/or other related, unrelated, or subsequently developed and marketed telecommunications or electronic data services to the Property or any portion thereof.

"***Trails***" means the paths and trails originally constructed by the Declarant or by an Owner pursuant to an agreement with the Declarant across Lots and Common Area, which shall

be maintained by the Association for the use of all Owners or those portions of the Property subject to a sidewalk/trail easement granted to the County or otherwise for the use and benefit of all Owners. Such paths and trails shall be considered part of the Common Area, even though located within a Lot.

"***Upkeep***" means care, inspection, maintenance, clearing snow and ice, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

"***Virginia Code***" shall mean the Code of Virginia (1950), as amended, and in effect as of the date of recordation of this Declaration and as amended from time to time thereafter. If any sections of the Virginia Code referred to in this Declaration are hereafter repealed or recodified, each such reference herein shall be deemed to apply to the section of the Virginia Code that is the successor to the previous section referred to herein, or, if there is no successor section because the code section has been repealed, such reference herein shall be interpreted as if the code section had been repealed.

Section 1.2. Construction of Association Documents.

1.2 (a) Captions; Cross-References. The captions are provided only for reference, and in no way define, limit or describe the scope, meaning or effect of any provision. All cross-references are to the Declaration unless otherwise indicated.

~~1.2 (b) Pronouns. The use of the masculine gender shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to include the plural and vice versa, whenever the context so requires.~~

~~1.2 (c)~~1.2 (b) Severability. Each provision of an Association Document is severable from every other provision, and the invalidity or unenforceability of any one or more provisions shall not change the meaning of or otherwise affect any other provision. To the extent that any provision of the Association Documents is found to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision, then the narrower or partially enforceable construction shall govern and, to the maximum extent practicable, the provision shall be enforced.

~~1.2 (d)~~1.2 (c) Interpretation. If there is any conflict among the Association Documents, this Declaration and, thereafter any applicable Supplementary Declaration, shall control, except as to matters of compliance with the Act, in which case the Articles of Incorporation shall control. Specific provisions shall control general provisions, except that a construction consistent with the Act shall in all cases control over any inconsistent construction. The provisions of the Bylaws shall control over any conflicting provision of any rule, regulation or other resolution adopted pursuant to any of the Association Documents. The Association Documents shall be construed together and shall be deemed to incorporate one another in full. Any requirements as to the content of one shall be deemed satisfied if the deficiency can be cured by reference to any of the others.

~~1.2 (e)~~1.2 (d) No Merge; Savings Clause. The easements granted and reservations made in this Declaration or in any Supplementary Declaration shall not terminate or merge and shall continue to run with the land, notwithstanding the common law doctrine of merger~~ and the common ownership of the Property at this time by the Declarant and/or the Landowners~~. If the intended creation of any easement provided for in this Declaration should fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to be so created shall nevertheless be considered as having been granted directly to the Association as agent for such intended grantees for the purpose of allowing the Persons to whom the easement were originally to have been granted the benefit of such easement.

~~1.2 (f) Ambiguities Resolved by Declarant. If there is any ambiguity or question as to whether any Person, real estate or improvement falls within any of the definitions set forth in Article 1, the determination made by the Declarant (as evidenced by a recorded Supplementary Declaration) shall be binding and conclusive.~~

1.2 (e) Use of New Technology. Due to the ongoing development of new technologies and corresponding changes in business practices, to the extent permitted by law now or in the future, the following may be accomplished using the most advanced technology available at that time, if such use is a generally accepted business practice, including, but not limited, electronic mail, online voting platforms, and online payment platforms:

(1) ~~(1)~~ any notice required to be sent or received;

(2) ~~(2)~~ any signature, vote, consent or approval required to be obtained; or

(3) ~~(3)~~ any payment required to be made, under the Association Documents~~ may be accomplished using the most advanced technology available at that time if such use is a generally accepted business practice~~.

~~1.2 (g)~~ The use of technology in implementing the provisions of this Declaration dealing with notices, payments, signatures, votes, consents or approvals shall be governed by Section 1.2 of the Bylaws.

Section 1.3. The Association.

1.3 (a) Creation. The Association is a nonstock corporation organized and existing under the laws of the Commonwealth of Virginia, charged with the duties and vested with the powers prescribed by law and set forth in the Association Documents.

1.3 (b) Membership. Members of the Association shall at all times be, and be limited to, 1) ~~the Declarant (during the Development Period) and other~~ Persons who constitute Owners of the Lots and~~, or~~ 2) the Sub-associations representing the Owners of Lots located within the Sub-association.

If more than one Person owns a Lot, then all of the Persons who own such Lot shall collectively constitute one Owner and be one member of the Association; provided, however, that if an Owner

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is represented by a Sub-association, then such Owner is not directly a member of the Association. In either case, each Owner is entitled to attend all public meetings of the Association.

~~1.3 (b)~~ Sub-associations shall cast their votes through a representative designated by and under the direction of the board of directors or the governing body serving similar purposes of such Sub-association. Membership in the Association (either directly or indirectly through a Sub-association) is mandatory and automatic with ownership of a Lot.

1.3 (c) Classes of Owners; Voting Rights. The Association shall have the classes of Owners (or Members) with the voting rights set forth in the Articles of Incorporation and as follows:

(i) ~~(i)~~ The Class A Owners shall be the Owners of Single Family Lots~~, other than the Declarant or a Builder during the Declarant Control Period,~~ and shall have one (1) vote for each Lot owned;

(ii) ~~(ii)~~ The Class B Owners shall be the Owners of Multifamily Lots~~, other than the Declarant during the Declarant Control Period~~. Owners of Multifamily Lots shall have one vote for every four (4) dwelling units located or permitted to be located on such Multifamily Lot;

(iii) ~~(iii)~~ The Class C Owners shall be the Owners of Commercial Lots~~, other than the Declarant during the Declarant Control Period~~. Owners of Commercial Lots shall have one vote for each five thousand (5,000) square feet of Gross Floor Area (rounded up to the next vote) within the improvements located on such Commercial Lot; provided, however, that a Commercial Lot Owner shall be entitled to at least one (1) vote; and

(iv) ~~(iv)~~ The Class D Owners shall be the Owners of Civic Lots and shall have not be entitled to vote on any matter required or permitted to be submitted to the vote of the Owners by the Association Documents~~; and~~

~~1.3 (c) (v) The Class E Owner shall be the one (1) or more Persons constituting the Declarant. During the Declarant Control Period the number of votes of the Class E Owner shall be determined based upon the number and type of Lots located within the Submitted Land: (a) three (3) votes for each Single Family Lot; (b) two (2) votes for every four (4) dwelling units located or permitted to be located on any Multifamily Lot; (c) five (5) votes for each Commercial Lot. After the Declarant Control Period expires, the Declarant shall have one (1) vote as a Class B Owner and shall also become a Class A, B and/or C Owner (if applicable) with respect to the Lots owned by the Declarant. When the Development Period ends, the Class E Owner shall cease to have any Class E votes.~~ Any Owner qualifying as a member of more than one voting class may exercise those votes to which such Owner is entitled for each such class; provided, however, that such Owner shall not simultaneously have more than one class of vote for the same Lot.

1.3 (d) Authority to Act. The Board of Directors is responsible for the management and Upkeep of the Property and the administration of the duties and affairs of the Association. Unless otherwise specifically provided in the Act or the Association Documents, all rights, powers,

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easements, obligations and duties of the Association may be performed by the Board of Directors on behalf of the Association without the joinder or approval of any Owner or Mortgagee.

1.3 (e) Merger or Consolidation. Upon merger or consolidation of the Association with another entity formed for similar purposes, the Association's properties, rights and obligations may be transferred to the surviving or consolidated entity, or alternatively, the properties, rights and obligations of the other entity may be assumed by the Association, as the surviving entity. No such merger or consolidation shall affect any revocation, termination, change or addition to this Declaration except pursuant to Articles 145 and 156.

ARTICLE 2

COMMON AREA

~~**Section 2.1. Conveyance; Title.** The Common Area in each subdivided section of the Property shall be conveyed to the Association in fee simple released from any encumbrance securing the repayment of monetary obligations incurred by any Person, but subject to all easements and other encumbrances then of record (including those created by this Declaration). The Common Area in each subdivided section of the Property shall be conveyed to the Association within ninety (90) days after the conveyance to an Owner (other than the Declarant or a Builder) of more than fifty percent (50%) of the Lots in such subdivided section, but in no event later, than the conveyance of any Lot subject to a Mortgage guaranteed by the VA in such section to an Owner other than the Declarant or a Builder. The Association shall accept title to any real estate or personal property offered to the Association by any Person pursuant to this Section and the Association shall obtain title insurance for any real estate acquired in its own name. The Declarant shall have the right, subject to obtaining all required governmental approvals and permits, to construct or permit the construction on the Common. Area of such facilities as the Declarant deems appropriate. The timing and phasing of all such construction shall be within the sole discretion of the Declarant. The Declarant will try to specifically identify the Common Area, but such identification shall not be required in order for land to be Common Area hereunder. If the Declarant determines that particular land is or is not a Common Area, such determination shall be binding and conclusive. The Common Area may change from time to time in connection with changes in Development Plan, the Proffers and other factors not now known. Accordingly, reference to the Common Area shall be deemed to refer to Common Area at the relevant time. Pursuant to IV.B.3 of the Proffers for Braddock Crossing, ZMAP 2003-0012, Winchester is required to construct a "Recreation Field and Sports Court Area" on Parcel C, Stratshire Crossing, Phase 1, consisting of approximately 4.11 acres, and to convey such parcel to the County. In the event the County declines acceptance of Parcel C and the active recreation area, Parcel C shall be conveyed to the Association as Common Area.~~

Section 2.12. No Dedication. Nothing contained herein or in the other Association Documents shall be construed as a dedication to public use or as an assumption of responsibility for Upkeep of any Common Area by the County or any public or municipal agency, authority or utility, nor shall it be construed to prevent the Board of Directors of the Association from permitting public access to or use of any Common Area.

Section 2.2~~3~~. Regulation of Common Area. The Board of Directors shall have the~~,~~ right to regulate the use of the Common Area, pursuant to Section 7~~8~~.3, as well as the conduct of those using the Common Area, and to charge fees for the use of Common Area. The Board of Directors may also allow nonmembers to use portions of the Common Area on a daily, an annual, or a one-time fee basis. The Board of Directors may also mortgage, dedicate or convey Common Area or grant easements over, under, across and through the Common Area subject to the restrictions in Section 1~~4~~5.43.

~~**Section 2.4. Transfer of Responsibility for Upkeep.** When the Declarant or Builder transfers the responsibility for Upkeep of any portion of the Common Area to the Association, any improvements located thereon shall be substantially complete, all work (except for such work which cannot be performed due to the weather conditions or the season of the year, which the Declarant or Builder will be obligated to complete when weather conditions permit) required by the site plan shall be either completed or bonded with the County. The Association shall reasonably and in good faith cooperate with the Declarant and/or Builder to obtain release of County bonds.~~

~~**Section 2.5. Additional Improvements on Common Area.** After the initial improvement and conveyance of any Common Area to the Association, the Declarant or a Builder may, but is not obligated to, construct additional improvements on the Common Area for the benefit of the Property, pursuant to the easements in Section 3.1.~~

~~**Section 2.6. Boundary Adjustments.** The Board of Directors has the power at any time and from time to time, consistent with the then existing zoning or subdivision ordinances of the applicable governmental authority, and pursuant to a recorded subdivision, resubdivision plat or boundary line adjustment plat, to transfer part of the Common Area at the direction of the Declarant, for the purpose of adjusting Lot lines or otherwise in connection with the orderly subdivision and development of the Property; provided, however, (i) such transfer shall not reduce the portion of the Property designated as "open space" below the minimum level of "open space" required in the subdivisions comprising the Property at the time of the transfer; (ii) if the transfer results in a material reduction in the amount of Common Area (more than an acre), then the Declarant shall transfer or cause to be transferred to the Association such real estate as may be necessary to maintain the total acreage designated as "Common Area" at that level existing at the time of the transfer or the Association shall be otherwise reasonably compensated; (iii) the appropriate governmental authorities approve such Lot line adjustments; (iv) documents evidencing any such Lot line adjustment are submitted to VA if VA is guarantying a Mortgage on a Lot directly affected by the adjustment, or FHA if FHA is insuring a Mortgage on a Lot directly affected by the adjustment; and (v) the boundary line adjustment is approved by all Owners of Lots for which the boundaries are being adjusted, such approval not to be unreasonably withheld, conditioned or delayed.~~

ARTICLE 3

EASEMENTS

Section 3.1. Development Easements Reserved to the ~~Declarant~~Association. The following rights and easements are expressly and unconditionally reserved to the ~~Declarant~~ Association~~and its successors, designees and assigns~~:

~~3.1 (a) Easement to Facilitate Development. The Declarant hereby reserves a nonexclusive blanket easement over, under, across and through the Property for all purposes reasonably related to the development and completion of improvements on the Property and the Additional Land, including without limitation: (i) temporary slope and construction easements; (ii) drainage, erosion control and storm and sanitary sewer easements (including the right to cut or remove trees, bushes or shrubbery, to regrade the soil and to take any similar actions reasonably necessary, as determined by Declarant); (iii) easements for the storage (in a sightly manner) of reasonable supplies of building and construction materials and equipment necessary to complete the improvements; (iv) easements for the construction, installation and Upkeep of improvements (e.g., buildings, landscaping, street lights, signage, etc.) on the Property and the Additional Land or reasonably necessary to serve the Property or the Additional Land; and (v) easements for access, ingress and egress as necessary to perform the foregoing.~~

~~3.1 (b) Easement to Facilitate Sales. The Declarant hereby reserves the right to: (i) use any Lots owned or leased by the Declarant, any other Lot with the written consent of the Owner thereof or any portion of the Common Area (including any buildings thereon) as models, management offices, sales offices, a visitors' center, construction offices, customer service offices or sales office parking areas (provided, however, that the Declarant or its designee, as appropriate, shall remain responsible for the Upkeep of that portion of the Common Area used for the foregoing purposes); (ii) place and maintain in any location on the Common Area, on any Lot with the written consent of the Owner thereof, or on any Lot without the written consent of the Owner thereof (but for a distance of no more than ten (10) feet inside any Lot line which parallels a public or private street), street and directional signs, temporary promotional signs, temporary construction and sales offices, plantings, street lights, entrance features, ,"theme area" signs, lighting, stone, wood or masonry walls or fences and other related signs and landscaping features; provided, however, that all signs shall comply with applicable governmental regulations and the Declarant shall obtain the consent of the Owner of any affected Lot or of the applicable Covenants Committee if the Owner does not consent; and (iii) relocate, remove or replace all or any of the foregoing from time to time at the Declarant's sole discretion.~~

~~3.1 (c)~~3.1 (a) General Utility Easement. The ~~Declarant~~ Association hereby reserves a non-exclusive perpetual blanket easement over, under, across and through the Property for ingress, egress, installation and Upkeep of the equipment for providing to any portion of the Property or adjacent real estate, any utilities, including without limitation water, sewer, storm water management and drainage, oil, gas, electricity, solar, telephone, television, cable, broadband or other telecommunications service, whether public or private; such easement is hereby granted to any Person installing or providing Upkeep for the aforesaid services. Any pipes, conduits, lines, wires, inlets, transformers, manholes and any other apparatus necessary for the provision or metering of any utility may be installed, maintained or relocated where permitted by ~~the Declarant or where approved by~~ resolution of the Board of Directors; provided, however that no line shall run beneath a residential dwelling or other building other than the lines serving such residential dwelling or building.

~~3.1 (d)~~3.1 (b) Specific Development Easement Areas. The ~~Declarant~~ Association hereby reserves to itself the right to grant, assign, convey and reserve easements, rights-of-way and licenses over, under across and through: (i) the Common Area; (ii) any common area within a planned community or the common elements of any Sub-association, condominium association or cooperative association located within the Property; (iii) any real estate conveyed to a Builder prior to subdivision into individual lots; (iv) any Commercial, Civic or Multifamily Lot within twenty-five (25) feet inside of any boundary line of such Commercial, Civic or Multifamily Lot; or (v) any Single Family Lot within ten (10) feet inside of any boundary line of such Single Family Lot for the installation and Upkeep of the equipment for providing to any portion of the Property or adjacent real estate, any utilities, including without limitation water, sewer, storm water management and drainage, oil, gas, electricity, solar, telephone, television, cable, broadband or other telecommunications service, whether public or private, or for any other purpose necessary or desirable for the ~~orderly development of the Property or for the~~ benefit of adjoining real estate; provided, however that no line shall run beneath a residential dwelling or other building other than the lines serving such residential dwelling or building.

~~3.1 (e)~~3.1 (c) Dedications and Easements Required by Governmental Authority. The ~~Declarant~~ Association hereby reserves the right to make any dedications and to grant any easements, rights-of-way and licenses, as may be required by the County or any government or governmental agency or utility service provider over, under, across and through all or any portion of: (i) the Common Area; (ii) any common area within any Sub-association, any planned community or the common elements of any condominium association or cooperative association located within the Property; (iii) any real estate conveyed to a Builder prior to subdivision into individual lots; (iv) any Commercial, Civic or Multifamily Lot within twenty-five (25) feet inside of any boundary line of such Commercial, Civic or Multifamily Lot; or (v) any Single Family Lot within ten (10) feet inside of any boundary line of such Single Family Lot. The ~~Declarant~~ Association also hereby reserves to itself and its ~~successors and~~ assigns an easement to make any corrections required by a government or governmental agency or utility service provider and a right to grant and reserve easements or to vacate or terminate easements across all Lots and Common Area as may be required by any governmental agency or authority or utility company in connection with the release of bonds or the acceptance of streets or other improvements for public maintenance with respect to the Property. The ~~Declarant~~ Association hereby further reserves the right to withdraw any portion of the Property from this Declaration, as may be required by any government or governmental agency.

3.1 (d) Landscaping Easement Across Lots; Trails.

~~3.1 (f)~~

(1) Landscaping. The ~~Declarant~~ Association hereby reserves an easement and the right to grant and reserve easements over, under across and through the Common Area, the common area within any Sub-association, any planned community or the common elements of any condominium association or cooperative association located within the Property or any real estate conveyed to a Builder prior to subdivision into individual lots, or over, under across and through any Lot: (i) within fifty (50) feet of any public or private right-of-way or thirty (30) feet from any adjacent Lot in the case of a Commercial, Civic or Multifamily Lot; and (ii)

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within fifteen (15) feet of any public or private right-of-way in the case of a Single Family Lot. The foregoing easements shall be for the purpose of construction, installation, irrigation and Upkeep of landscape and hardscape features, including without limitation plants, trees, earth berms, walks, paths, walls and other earth contouring features and shall include ingress and egress as necessary to perform such tasks. Such easement area shall also be available for entrance features, project signage, fencing, and associated lighting and irrigation systems. The Owner of a Lot burdened by the foregoing easement shall not construct or maintain any improvements within the easement without the express written permission of the ~~Declarant, during the Declarant Control Period, or the~~ Board of Directors~~, thereafter~~. If the Board of Directors so determines, then the cost of the Upkeep of these easement areas by the Association shall be a Common Expense or a Limited Common Expense, as appropriate. Otherwise, the Owner of a Lot shall maintain the area located within the foregoing easement area on such Owner's Lot at such Owner's sole cost and expense.

(2) Trails. ~~The Declarant may install Trails within the easement areas described in this subsection, without the permission or approval of the Owner of such Lot, or at any other location over, under across and through the Lot with the permission of the Owner of such Lot.~~ The ~~Declarant~~ Association hereby reserves the right to grant easements across Trails and grants to ~~the Association and~~ each Owner an easement for access across such Trails. The Trails shall be available for the nonexclusive use of all Owners. The Association shall provide for the Upkeep of the Trails and the cost of such Upkeep shall be a Common Expense or a Limited Common Expense, as determined by the Board of Directors. ~~Trails may be of varying widths and shall be constructed of such materials as are approved by the Declarant during the Development Period or the Board, of Directors thereafter.~~

~~(2)~~

(3) Relocation. ~~The Declarant may replace, relocate, reduce or otherwise modify the course or location of any of the foregoing easement areas in a Supplementary Declaration with respect to such Lot without the joinder or approval of the Association or any Owner or Mortgagee (other than the Owner and Mortgagee of the Lot across which the easement is located).~~ An Owner, with the consent of the Board of Directors as evidenced by the signature of an Officer of the Association on an instrument recorded among the Land Records, may record, at the Owner's sole expense, an easement plat showing the exact location of the easement for Landscaping and Trails on the Owner's Lot~~,~~. These easements may be relocated by the Owner of a Lot burdened with any such easement with the consent of the Board of Directors on behalf of the Association and the Owners and occupants of the Property without the joinder or approval of any Owner or Mortgagee (other than the Owner and Mortgagee of the Lot across which the easement is located).

~~3.1 (g)~~3.1 (e) Telecommunications Easements. The ~~Declarant~~ Association reserves a blanket easement over, under, across and through the Property for all purposes reasonably related to the ~~development and completion of the~~ Telecom System at the Property ~~and the Additional Land~~, including, without limitation, easements for the Telecom Provider in accordance with one or more other exclusive or non-exclusive easements ~~(as may be determined by the Declarant in its sole discretion)~~ encumbering the Property, easements for access to and the installation, construction, operation, upkeep, modification, inspection, re-building, removal,

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relocation and maintenance of the Telecom System by the Telecom Provider (including but not limited to, cabinets, manholes, wires, posts, pedestals, terminals, location markers, power lines, conduits, cables, switchgear, transformers, meters, ground connections, supports and other above and/or below ground or appurtenant facilities for distribution of power, telecommunications, telephone, Internet, cable television, security and other similar or dissimilar devices and services) including the right of ingress and egress over, under, across and through said land, to and from said systems for the purposes of exercising the rights herein granted; to open and close fences, cut down and keep cut down all trees and undergrowth impairing or interfering with the Telecom System; and to carry in said easements the wires, cables, circuits and, except as may be inconsistent with the rights of the Telecom Provider pursuant to any exclusive easements that may be granted by the ~~Declarant~~Association, appurtenances of any other company approved by ~~Declarant~~ Association in its sole discretion. Without limiting the generality of the foregoing and notwithstanding the terms of Article 1~~5~~4 and anything to the contrary herein, the ~~Declarant~~ easement rights set forth herein regarding the telecommunication system shall be exclusive to the ~~Declarant~~ Association ~~(and its written designees)~~ and cannot be terminated by any Person other than the ~~Declarant~~ Association~~and shall survive in perpetuity beyond the Declarant Control Period, the Development Period and the term of this Declaration unless an instrument specifically vacating such easement rights is executed by Declarant and recorded among the Land Records~~.

3.1 (f) Storm Water Management Easements. The ~~Declarant~~ Association hereby reserves to itself ~~and its successors and assigns an easement and~~ the right to grant and reserve easements over, under, across and through the Property for the construction and Upkeep of storm water management facilities, whether public or private, including storm water retention areas. The ~~Declarant~~ Association shall also have the right to allow adjacent properties to connect or tie their storm water management facilities into the storm water management facilities for the Property; provided, however, that such adjacent property owners pay that portion of the expense of Upkeep for the storm water management facilities for the Property in such amount as may be deemed appropriate by the ~~Declarant~~Association.

~~3.1 (h)~~

~~3.1 (i) Further Assurances. Any and all conveyances made by the Declarant to the Association or any Owner shall be conclusively deemed to incorporate these reservations of rights and easements, whether or not set forth in such grants. At any time and from time to time upon written request from the Declarant, the Association and each Owner shall execute, acknowledge and deliver to the Declarant such further assurances of these reservations of rights and easements or shall join in the grant of easements herein contemplated on the forms required by the County or the various utility companies providing service as may be requested.~~

~~3.1 (j) Duration and Assignment of Development Rights. The Declarant may at any time and from time to time transfer and/or assign its rights under this Section to, or share such rights with, one or more other Persons, exclusively, simultaneously or consecutively. The Declarant shall endeavor to notify the Association of any such transfer, assignment or designation by the Declarant. The rights and easements of Declarant reserved pursuant to this Section shall continue until the end of the Development Period, unless specifically stated otherwise. Any rights transferred, assigned or granted to a Builder hereunder are specifically limited to the portion of the~~

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~~Property being developed by such Builder. Such rights shall be subject to such rules as may be established by the Declarant to maintain reasonable standards of public health, safety, cleanliness and general appearance for the Property.~~

~~**Section 3.2. Association Power to Make Dedications and Grant Easements.** The Declarant, on behalf of itself and its successors and assigns, hereby also grants to the Association the rights, powers and easements reserved to the Declarant by Section 3.1, paragraphs (b)(ii), (c), (d), (e), (f) and (h). These rights, powers and easements may be exercised by the Association, subject to Section 15.4; provided, however, that the limitations on duration applicable to the Declarant shall as set forth in Section 3.1(a)(10) shall not apply to the Association. If the Declarant or any Owner requests the Association to exercise the rights, powers and easements reserved to the Association under this section, the Association's agreement to do so shall not be unreasonably withheld, conditioned or delayed.~~

Section 3.2~~3~~. Easement for Upkeep. The ~~Declarant~~Association~~, on behalf of itself and its designees, successors and assigns,~~ hereby grants the right of access over, under, across and through any portion of the Property ~~(excluding any improvement)~~ to the Association, the Managing Agent and any other Persons authorized by the Board of Directors or the appropriate Covenants Committee, in the exercise and discharge of their respective powers and responsibilities, including without limitation to make inspections, correct any condition originating in a Lot or in the Common Area threatening another Lot or the Common Area, correct drainage, perform installations or Upkeep of utilities, landscaping or other improvements located on the Property for which the Association is responsible for Upkeep, or correct any condition which violates the Association Documents. The agents, contractors, Officers and directors of the Association may also enter any portion of the Property ~~(excluding any improvement)~~ in order to utilize or provide for the Upkeep of the areas subject to easements granted in this Article to the Association. Each Owner shall be liable to the Association for the cost of all Upkeep performed by the Association and rendered necessary by any act, failure to act, neglect, carelessness or failure to comply with the Association Documents for which such Owner is responsible pursuant to Section 1~~2~~.1, and the costs incurred by the Association shall be assessed against such Owner~~'~~s Lot in accordance with Sections ~~5~~6.2 and 1~~2~~.1.

Section 3.~~4~~3. Limitations on Exercise of Rights and Easements. The foregoing easements are subject to all other easements and encumbrances of record (including those created by this Declaration). No Person who owns Property subject to this Declaration may subordinate the easement herein created to any subsequent encumbrance without the prior written approval of the ~~Declarant, during the Development Period, or the~~ Board of Directors ~~thereafter~~. The ~~Declarant, the~~ Association or any other Person, as appropriate, when exercising the rights and easements granted by this Article, shall: (i) give reasonable prior notice to all affected Owners, unless an emergency exists which precludes such notice; (ii) minimize any economic or aesthetic injury to the affected Lots or the Common Area; (iii) not unreasonably interfere with the affected Owners' use, enjoyment and benefit from such Owners~~'~~ Lots or the Common Area or the building areas located on such Lot as approved by ~~the Declarant or~~ the appropriate Covenants Committee. If an easement is relocated, the cost of such relocation shall be paid by the party requesting the relocation. Any damage resulting from the exercise of the aforesaid rights and easements shall be promptly repaired and the site restored to the extent practicable by the ~~Declarant or the~~

Association, ~~, as appropriate,~~ or, at the option of the ~~Declarant or the~~ Association, the party responsible for such damage. In either case, the cost of such repair and restoration shall be paid for by the party responsible for the damage.

Section 3.4~~5~~. Easements for Encroachments. If any improvement on the Property now or hereafter encroaches on any other portion of the Property by reason of (i) the original construction thereof; (ii) deviations within normal construction tolerances in the Upkeep of any improvement; or (iii) the settling or shifting of any real estate or improvement, an easement is hereby granted to the extent of any such encroachment for the period of time the encroachment exists. The Owner of the encroaching improvement shall also have an easement for the limited purpose of Upkeep of the encroaching improvement. This easement does not relieve any Owner or any other Person from liability for such~~.~~ Owner's or other Person's negligence or willful misconduct in connection with the creation of any such encroachment.

Section 3.5~~6~~. Easement for Support. To the extent that any portion of the Property now or hereafter supports or contributes to the support of any other portion of the Property, the former is hereby burdened with an easement for the lateral and subjacent support of the latter.

Section 3.6~~7~~. Easement for Emergency Access. The ~~Declarant, on behalf of itself and its designees, successors and assigns,~~ Association hereby grants an easement: (i) to all police, fire, ambulance and other rescue personnel over, under, across and through all or any portion of the Property for the lawful performance of their functions during emergencies; and (ii) to the Association, over, under, across and through all Lots, if emergency measures are required in any Lot to reduce a hazard thereto or to any other portion of the Property. The Association is hereby authorized but not obligated to take any such emergency measures as may be determined by the Association in its sole and absolute discretion.

Section 3.~~8~~7. Easement for Use of Common Area.

3.7 (a) Use and Enjoyment. The ~~Declarant~~ Association hereby reserves to itself ~~during the Development Period and, on behalf of itself and its designees, successors and assigns,~~and grants to each Owner and each Person lawfully occupying a Lot, a non-exclusive right and easement of use and enjoyment, of the Common Area (other than any Reserved Common Area) in common with other Owners and other Persons lawfully occupying a Lot. Such right and easement of use and enjoyment shall be appurtenant to each Lot, whether or not mentioned in the deed thereto. Every Owner and each Person lawfully occupying a Lot is also granted a non-exclusive easement for access, ingress and egress (including lead sidewalks, driveway aprons and utility laterals) over the Common Area to the extent necessary to provide utility services and vehicular and pedestrian access to such Lot for such Owner and such Owner's household, tenants, guests, customers, employees, agents and invitees. The Association, acting through its Board of Directors without the joinder or approval of any Owner or Mortgagee, is authorized on behalf of each Owner to relocate, modify or terminate easements over, under, across and through the Common Area now or hereafter granted in this Declaration, in deeds of subdivision or otherwise; provided, however, that each Owner retains (in a location determined by the Board of Directors) a right of convenient, unobstructed, all weather access to such Owner's Lot for vehicular and pedestrian ingress and egress and for utility services. A conveyance or dedication of a portion of

the Common Area to any entity, other than an entity formed for similar purposes in which the Owners are directly or indirectly members, shall extinguish the Owners' easement rights except for those easements which provide access and public or private utility services to such Owners' Lots. However, all such easement rights shall be extinguished with respect to any portion of the Common Area that is dedicated to the County for public street purposes. Any purported conveyance or other transfer of such rights and easements apart from the Lot to which such rights and easements are appurtenant is void.

3.7 (b) Limitations. The rights and easements of enjoyment created in this Section shall be subject (in addition to any easements granted or reserved in this Declaration or pursuant to the other Association Documents) to all rights and powers of the ~~Declarant and the~~ Association when exercised in accordance with the other applicable provisions of the Association Documents, including without limitation the Association's right to designate Reserved Common Area, to regulate the use of and the conduct of individuals on the Common Area and to establish reasonable charges therefor, to grant easements over, under, across and through the Common Area, to dedicate or convey portions of the Common Area and to mortgage the Common Area, subject to Section 1~~4~~5.34. In the event of a default upon any Mortgage of the Common Area by the Association, the lender's rights hereunder shall be limited to a right, after taking possession of such Common Area, to charge reasonable admission and other fees, and, if necessary, to open enjoyment of such Common Area to a wider public, until such debt is satisfied, whereupon possession of the Common Area shall~~.~~ be restored to the Association and the rights of the Owners shall be fully restored.

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3.7 (c) Delegation. Subject to the Rules and Regulations and such other restrictions as may be adopted by the Association, any Person having the right to use and enjoy the Common Area may delegate such rights to such Person's household or company, tenants, guests, customers, employees, agents and invitees and to such other Persons as may be permitted by the Association. The easements and rights granted by this Declaration shall not be enforceable by Persons to whom such easements and rights may be delegated by Owners, including without limitation the household or company, tenants, guests, customers, employees, agents, and invitees of any Owner. This Section does not affect, however, the rights of the Mortgagees in possession or court-appointed officers in possession and control of a Lot acting in the name, place and stead of the Owner thereof, or any Person's right to enforce any easements or rights granted in any lease or agreement between such Person and an Owner.

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Section 3.8~~9~~. Reserved Common Area. The Board of Directors shall have the power in its discretion from time to time to grant revocable licenses in the Common Area by designating portions of the Common Area as Reserved Common Area. Such Reserved Common Area shall be subject to such restrictions, reasonable charges and conditions on the use thereof as the Board of Directors may deem appropriate. At the option of the Board of Directors, Upkeep of such Reserved Common Area shall be performed by the Association and paid for as a Common Expense or a Limited Common Expenses or, at the Board's option, by the Persons having the exclusive right to use the Reserved Common Area. The Board of Directors is not required to assign Reserved Common Area in a uniform manner, but it is only required to use its business judgment. For example, the Board of Directors may determine to assign parking spaces to some Owners and not others, or to assign different numbers of parking spaces to different Owners based on whether or not such Owners have parking on such Owners' Lots, to provide for priority parking because of a

disability or handicap, or for other reasonably justifiable purposes, as determined by the Board of Directors.

~~**Section 3.10. Land Submitted by Owners Other than the Declarant.** Any Person other than the Declarant submitting real estate to this Declaration hereby grants to the Declarant, the Association and to each other Owner all rights, easements and other interests with respect to such real estate granted or reserved in this Article and shall provide such further assurances as may be required by the Declarant.~~

Section 3.9~~11~~. Dedications. Notwithstanding any other provision of this Declaration, any easement created herein or pursuant hereto shall automatically terminate and cease to exist with respect to any portions of the Property dedicated to the County for public rights-of-way and accepted into the Virginia State secondary system for maintenance.

Section 3.10~~2~~. Easements for Parking and Private Streets and Roadways Access.

~~3.12 (a)~~ 3.10 (a) —Right to Use Parking Areas and Private Streets and Roadways. Each of the parking spaces located on the Common Area (other than within a Reserved Common Area), if any, shall be available for the use of the Owners. In this Section 3.10~~2~~, "~~"~~Owners~~"~~" means the Owners and such Owners~~'~~' tenants and such Owners~~'~~' (or tenants~~'~~') households, companies, guests, employees, customers, agents or invitees. Such use shall be subject to Subsection 3.10~~2~~(b) and such reasonable Rules and Regulations regulating the same as the Board of Directors may adopt. The Association shall not unreasonably interfere with the right of any Owner, or such Owner~~'~~s tenant or such Owner~~'~~s (or tenant~~'~~s) household, company, guests, employees, customers, agents or invitees to use the Private Streets and Roadways for both vehicular and pedestrian ingress and egress to and from such Owner~~'~~s Lot. Unless otherwise specifically designated in this Declaration or any other agreement, the parking areas and driveways on each Owner~~'~~s Lot are to be used and maintained solely by such Owner and such Owner~~'~~s designees.

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3.10 (b) —Limitations. Each of the parking spaces located on the Common Area shall be subject to designation as Reserved Common Area appurtenant to certain designated Lots pursuant to the reservation set forth in Section 3.8~~9~~. Until assigned as Reserved Common Area, all parking spaces located in the Common Area shall be used by the Owners for self-service parking purposes on a "~~"~~first come, first served~~"~~" basis, except as the Board of Directors may otherwise determine ~~or as may be otherwise stated with respect to Additional Land in an amendment to this Declaration adding such Additional Land~~. No Owner shall park on the Common Area parking spaces except in accordance with the Association~~'~~s parking Rules and Regulations. The Board of Directors has the right to restrict the number of parking spaces located on the Common Area used by any one Owner. If the Board of Directors assigns Common Area parking spaces, any Owner previously assigned a handicap accessible parking space may be reassigned a different parking space to accommodate the needs of a handicapped occupant.

3.10 (c) —Access to and Parking on Commercial Lots. Subject to the Rules and~~-~~ Regulations of the Association, all of the parking spaces, entrances and drive lanes located on each

Commercial Lot are hereby subjected to a non-exclusive easement for the benefit of each other Commercial Lot for the purpose of allowing ingress and egress over the entrances and drive lanes and customer parking on the parking spaces; provided, however, that a reasonable number of parking spaces convenient to the entrance to a retail business may be reserved exclusively for short-term parking by customers of such business.

Section 3.113. Priority and Enforcement of Easements.

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

3.11 (b) No Enforcement by Third Parties. The easements and rights granted by this Declaration shall not be enforceable by Persons to whom such easements and rights may be delegated by Owners, including without limitation the household, guests, employees, customers, tenants, agents or invitees of any Owner. This subsection does not affect, however, the rights of Mortgagees in possession or court-appointed officers in possession and control of a Lot acting in the name, place and stead of the Owner thereof, or any Person's right to enforce any easements or rights granted in any lease or agreement between such Person and an Owner.

3.11 (c) Easements Additional. The easements created by or pursuant to this Article 3 shall be in addition to such other easements as may be created by recordation of appropriate instruments among the Land Records.

Section 3.124. Limited Appointment of Attorney-in-Fact. Each Owner, for such Owner and such Owner's successors and assigns, by acquisition of title to all or any portion of the Property, irrevocably appoints the ~~Declarant, during the Development Period, and the~~ Association (acting by and through any duly delegated Officer)~~, after the Development Period,~~ as attorney-in-fact to grant, relocate and terminate all easements, rights-of-way and licenses which the ~~Declarant or the~~ Association has the power to grant pursuant to the Association Documents and subject to the limitations set forth therein; provided, however, that any action taken as attorney-in-fact shall not materially, adversely affect any Owner's use and development of the Lot owned by such Owner. The ~~Declarant shall act as such attorney-in-fact only in furtherance of the development of the Property, and the~~ Association shall act as such attorney-in-fact only in furtherance of its responsibilities and duties as set forth in the Association Documents, it being recognized that this grant of a power of attorney shall be conclusively deemed as coupled with an interest and irrevocable and is required because the ~~Declarant or the~~ Association may not own the real estate to be subjected to easements, rights-of-way and licenses hereunder.

ARTICLE 4

DEVELOPMENT OF THE PROPERTY

~~**Section 4.1. Expansion by the Declarant.**~~

~~4.1 (a) Designated Additional Land. The Declarant hereby reserves the, option and right until the twentieth anniversary of the date of recordation of this Declaration to expand the Property from time to time without the joinder or approval of the Association, any Owner or Mortgagee (except the owner of or holder of a Mortgage on the real estate to which this Declaration~~

~~is expanded) by submitting all or any portion of the Additional Land to the provisions of this Declaration and the jurisdiction of the Association whether or not such real estate is owned by the Declarant, The option to expand may be terminated only upon the recordation by the Declarant of an instrument relinquishing such option. The Declarant reserves the unilateral right, without the joinder or approval of the Association, any Owner or Mortgagee, to execute and record a Supplementary Declaration, subjecting any Lot to such additional covenants and restrictions as may be necessary to reflect the different characteristics of such Lot as are not inconsistent with the overall scheme of the Declaration; provided, however, that the Declarant shall not have such right after the conveyance of such Lot to an Owner other than the Declarant without the written consent of such Owner (and the Mortgagee of such Lot). The Declarant hereby reserves the option and right to add Additional Land in accordance with the procedures set forth in Section 4.3. There are no limitations on the option to expand except as set forth in this Article. If the Declarant does not submit all or any portion of the Additional Land to the Declaration, such real estate may be developed in any manner permitted under local zoning ordinances without regard to the restrictions in this Declaration and no negative reciprocal easement shall encumber the Additional Land.~~

~~4.1 (b) Undesignated Additional Land. The Declarant may unilaterally amend the description of Additional Land set forth in Exhibit B without the joinder or approval of the Association, any Owner or Mortgagee to expand the land area referred to as Additional Land whether or not such real estate is owned by the Declarant; provided, however, that such real estate is adjacent to the Property or across a public or private right-of-way. Should such amendment increase the overall land area of the Property described in Exhibits A and B-1 through B-4 by greater than ten percent (10%) in land area or increase the number of planned dwellings or non-residential development by greater than ten percent (10%), then such amendment shall also be subject to approval by VA (if a VA guaranty is in effect on a Mortgage) or FHA (if FHA insurance is in effect on a Mortgage) to the extent required by the then applicable law, rule or regulation of VA or FHA.~~

Section 4.~~2~~1. Expansion by the Association. Subject to a Majority Vote of the Owners or written approval from Owners entitled to cast a majority of the total number of votes~~, and the written consent of the Declarant during the Development Period,~~ the Association may submit any real estate located immediately adjacent to the Property or across a public or private right-of-way from the Property to the provisions of this Declaration and the jurisdiction of the Association, subject to the prior written consent of the fee simple owner of such real estate (if not the Association) and any mortgagee on such real estate in accordance with the procedures set forth in Section 4.2~~3~~ and subject to the limitations of Section 1~~4~~5.3~~4~~.

Section 4.2~~3~~. Procedure for Expansion Additional Covenants. The ~~Declarant, during the Development Period, and the~~ Association~~, after the Development Period,~~ may record one or more Supplementary Declarations. Each Supplementary Declaration shall include a legally sufficient description of the real estate subject thereto and shall designate such real estate with the term "Phase" or "Section" and a unique identifier so as to differentiate between each portion of the Property. Any Supplementary Declaration may contain such modifications, amendments and/or additions to the provisions of this Declaration as may be necessary to reflect the different characteristics of the Lots or land uses therein and as are not inconsistent with the overall scheme of this Declaration; provided, however, that such modifications, amendments and/or additions shall not apply to any real estate previously submitted to this Declaration after conveyance of a Lot to an Owner ~~other than the Declarant~~ without the written consent of the Owner of the Lot (and

the Mortgagee of such Lot) subject to the additional provisions. Upon recording a Supplementary Declaration submitting real estate to the Declaration, the provisions of the Declaration, including the provisions for voting rights and Assessments shall apply to the real estate thereby subject thereto as if such real estate were originally part of the Submitted Land. Any Owner ~~other than the Declarant~~ submitting Additional Land to the Declaration shall be deemed to have granted all the easements and rights granted and reserved herein to ~~the. Declarant,~~ the Association and the Owners.

Section 4.34. Withdrawable Land.

~~4.3 (a) By the Declarant. During the Development Period the Declarant has the unilateral right, without the joinder or approval of the Association, or any Owner or Mortgagee (except the Owner and Mortgagee of the real estate being withdrawn), to sign and record an amendment to the Declaration withdrawing any portion of the Property from the terms and conditions of this Declaration for any purpose. The Declarant hereby further reserves the right to withdraw any portion of the Property from this Declaration, as may be required by the County or any government or governmental agency.~~

By the Association. ~~After the Development Period the~~The Board of Directors, acting on behalf of the Association, and without the joinder or approval of any Owner or Mortgagee, may record an amendment withdrawing any real estate from the terms and conditions of this Declaration (i) dedicated or to be dedicated to a public use; or (ii) conveyed or to be conveyed to a public authority. The Association may also amend the Declaration to withdraw other real estate, subject to the requirements of Section 14~~5~~.43.

4.3 (b) Dedications for Public Streets. ~~–~~Any real estate dedicated to a public authority for public street purposes or other public purpose is automatically thereby withdrawn from the terms and conditions of this Declaration and the Declarant or the Board of Directors may unilaterally, without the joinder or approval of any Owner or Mortgagee, record an instrument confirming such withdrawal.

~~ARTICLE 5~~

~~SPECIAL DECLARANT RIGHTS; TRANSFER~~

~~**Section 5.1. Special Declarant Rights.** Special declarant rights are those rights reserved for the benefit of the Declarant as provided for in the Association Documents, and shall include without limitation the following: (1) the right to use, grant, reserve, vacate and terminate easements over, under, across and through the Property for the purpose of making improvements within the Property; (2) the right to maintain models, management offices, construction offices, sales offices, visitor centers, customer service offices and signs advertising the Property; (3) the right to exercise the rights and votes of the Class E Owner; (4) the right to remove and replace any director or committee member appointed or elected by the Class E Owner until the meeting at which all classes of Owners are entitled to elect a majority of the directors; (5) the right to make unilateral amendments to the Association Documents as provided in Sections 3.9, 4.1, 4.4, and 15.1; (6) the~~

right to remove and replace any director appointed by the Declarant pursuant to the Articles of Incorporation; (7) the right to add Additional Land or modify or amend the description of the Additional Land; (8) the right to withdraw Submitted Land; and (9) the right to exercise any other rights given to the Declarant. Except as may be otherwise expressly set forth herein, the Declarant may exercise its special declarant rights unilaterally without the joinder or approval of the Association or any Owner or Mortgagee.

Section 5.2. Transfer of Special Declarant Rights.

5.2 (a) Procedure. The Declarant may transfer special declarant rights created or reserved under the Association Documents without the joinder or approval of the Association, or any Owner or Mortgagee, to any Person: (i) owning or acquiring Lots, Submitted Land or Additional Land; or (ii) holding a Mortgage on Lots, Submitted Land or Additional Land. Such transfer shall be evidenced by an instrument recorded in the Land Records. The instrument is not effective unless executed by the transferor and transferee; provided, however, that a Person acquiring Lots or Additional Land pursuant to Subsection 5.2(c) may unilaterally execute and record an instrument to acquire some or all of the special declarant rights. A partial transfer of special declarant rights does not prevent the transferor declarant from continuing to exercise special declarant rights with respect to real estate retained by such declarant. The instrument providing for a partial transfer of special declarant rights shall allocate voting rights between the transferor and the transferee. Each Person entitled to exercise special declarant rights under the Association Documents has the right to transfer such rights unilaterally with respect to real estate owned by such Person, except to the extent provided otherwise in the instrument transferring the special declarant rights to such Person. If at any time no Declarant (or holder of special declarant right) exists and a portion of the Submitted Land or the Additional Land has not been developed, then a successor declarant who owns such undeveloped Submitted Land or Additional Land may be appointed by an amendment to the Declaration made pursuant to Section 15.2.

5.2 (b) Transfer of Liability. Upon transfer of any special declarant right, the liability of a transferor declarant is as follows:

(1) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations (if any) the. transferor has undertaken by contract or which are imposed upon the transferor by law.

(2) If the successor to any special declarant right is an Affiliate of a declarant (as defined in Section 5.2(g)), the transferor is jointly and severally liable with the successor for any obligation or liability of the successor that relates to the Property.

(3) If a transferor retains any special declarant rights, but transfers other special declarant rights to a successor who is not an Affiliate of the declarant, the transferor remains liable for any obligations and liabilities relating to the retained special declarant rights imposed on a declarant by the Association Documents arising after the transfer.

(4) A transferor has no liability for any act or omission, or any breach of a contractual or warranty obligation arising from the exercise of a special declarant right by a successor declarant who is not an Affiliate of the transferor.

5.2 (c) Effect of Foreclosure on Successor. Unless otherwise provided in a Mortgage, in case of foreclosure of a Mortgage (or deed in lieu of foreclosure), tax sale, judicial sale, sale by a trustee under a deed of trust or power of sale under the Bankruptcy Code or receivership proceedings, of any Lots or Additional Land owned by a declarant, a Person acquiring title to all the Lots or Additional Land being foreclosed or sold, but only upon such Person's express request, succeeds to all special declarant rights related to such Lots or Additional Land and to any rights reserved in the Association Documents to maintain models, management offices, construction offices, sales offices, customer service offices and signs advertising the Property. The judgment, instrument conveying title or other instrument recorded in the Land Records shall provide for transfer of only the special declarant rights requested.

5.2 (d) Effect of Foreclosure on Declarant. Upon foreclosure (or deed in lieu of foreclosure), tax sale, judicial sale, sale by a trustee under a deed of trust, or sale under the Bankruptcy Code or receivership proceedings, of all Lots and Additional Land owned by a declarant: (1) the declarant ceases to have any special declarant rights, and (2) the Declarant Control Period terminates unless the judgment, instrument conveying title or other instrument recorded among the Land Records within a reasonable time provides for transfer of special declarant rights.

5.2 (e) Liability of Successor. The liabilities and obligations of Persons who succeed to special declarant rights are as follows:

(1) A successor to any special declarant right who is an Affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by the Association Documents.

(2) A successor to any special declarant right, other than a successor described in paragraphs (3) or (4) of this subsection or a successor who is an Affiliate of a declarant, is subject to all obligations and liabilities imposed by the Association Documents: (A) on a declarant which relate to such declarant's exercise or non-exercise of special declarant rights; or (B) on the transferor, other than: (1) misrepresentations by any previous declarant; (ii) warranty obligations, if any, on improvements made by any previous declarant, or made before the Association was created; (iii) breach of any fiduciary obligation by any previous declarant or such declarant's appointees to the Board of Directors; or (iv) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

(3) A successor to only a right reserved in the Association. Documents to maintain models, sales offices, customer service offices and signs, if such successor is not an Affiliate of a declarant, may not exercise any other special declarant right, and is not subject to any liability or obligation as a declarant.

(4) A successor to all special declarant rights held by a transferor who succeeded to those rights pursuant to foreclosure, a deed in lieu of foreclosure or a judgment or instrument conveying title under Section 5.2(c) may declare the intention in an instrument recorded in the Land Records to hold those rights solely for transfer to another Person. Thereafter, until transferring all special declarant rights to any Person acquiring title to any Lots owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by the transferor to vote as the Class E Owner in accordance with the provisions of the Association Documents, and any attempted exercise of those rights is void. So long as a successor declarant may not exercise special declarant rights under this subsection, such successor is not subject to any liability or obligation as a declarant.

5.2 (f) Limitation. Nothing in this Article subjects any successor to a special declarant right to any claim against or other obligation of a transferor declarant, other than claims and obligations arising under the Association Documents.

5.2 (g) Affiliate. For the purposes of this Section, "Affiliate" or "Affiliate of a declarant" means any Person who controls, is controlled by, or is under common control with a declarant. A Person controls a declarant if the Person (i) is a general partner, officer, director or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more Persons or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent (20%) of the voting interests in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than twenty percent (20%) of the capital of the declarant. A Person is controlled by a declarant if the declarant (1) is a general partner, officer, director or employer of the Person, (ii) directly or indirectly or acting in concert with one or more other Persons or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing more than twenty percent (20%) of the voting interest in the Person, (iii) controls in any manner the election of a majority of the directors of the Person, or (iv) has contributed more than twenty percent (20%) of the capital of the Person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.

Section 5.3. No Obligations. Nothing contained in the Association Documents shall impose upon the Declarant or its successors or assigns any obligation of any nature to build, construct, warrant, renovate or provide any improvements. Neither the Declarant nor its officers, directors, members, agents, successors or assigns shall be liable to any Owner or occupant by reason of any mistake in judgment, negligence, nonfeasance, action or inaction or for the enforcement or failure to enforce any provision of this Declaration. No Owner or occupant of any portion of the Property shall bring any action or suit against the Declarant or any of its officers, directors, members, agents, successors or assigns to recover any damages or to seek equitable relief because of the enforcement or failure to enforce any provision of the Association Documents against a third party.

ARTICLE 56

COMMON EXPENSES AND ASSESSMENTS

Section ~~6~~5.1. Determination of Common Expenses and Budget.

5.1 (a) Fiscal Year. The fiscal year of the Association shall be as determined by the Board of Directors in accordance with the Bylaws.

5.1 (b) Preparation and Approval of Budget. At least thirty (30) days before the beginning of each fiscal year, the Board of Directors shall make available a copy of the budget in a reasonably itemized form, which sets forth the amount of the Common Expenses, and provide a copy of such budget to each Owner. Such budget shall constitute the basis for determining the Assessments against each Lot.

The budget shall ~~also~~ reflect the separate assessment of Limited Common Expenses, including without limitation certain expenses (and reserves) relating to or benefiting one or more but less than all of the Lots, whether categorized by location or type of expense. Such expenses shall be assessed only against the Lots benefited in accordance with Subsection 5~~6~~.2(b).

~~The At least five (5) days before the beginning of each fiscal year, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount considered necessary for the ensuing fiscal year to pay the cost of management and Upkeep of the Common Area and, to the extent provided in the Association Documents, Upkeep of the Lots, and the cost of other expenses that may be declared to be Common Expenses by the Association Documents or by a resolution of the Board of Directors, including without limitation services provided to the Owners, Lots or Common Area. Such~~ budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital (available cash for day-to-day expenses which is otherwise uncommitted), a general operating reserve (including an amount to cover operating losses due to insurance deductibles) and reserves for contingencies (potential costs or liabilities which have not been incurred but which should be planned for) and reserves for replacements. ~~At least thirty (30) days before the beginning of each fiscal year, the Board of Directors shall make available a copy of the budget in a reasonably itemized form which sets forth the, amount of the Common Expenses and provide a copy of such budget to each Owner. Such budget shall constitute the basis for determining the Assessments against each Lot. The budget shall also reflect the separate assessment of Limited Common Expenses, including without limitation certain expenses (and reserves) relating to or benefiting one or more but less than all of the Lots, whether categorized by location or type of expense. Such expenses shall be assessed only against the Lots benefited in accordance with Subsection 6.2(b).~~

~~6.1 (a)~~ At least five (5) days before the beginning of each fiscal year, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount considered necessary for the ensuing fiscal year to pay the cost of management and Upkeep of the Common Area and, to the extent provided in the Association Documents, Upkeep of the Lots, and the cost of other expenses that may be declared to be Common Expenses by the Association Documents or by a resolution of the Board of Directors, including without limitation services provided to the Owners, Lots or Common Area.

~~6.1 (b)~~ 5.1 (c) Installment Payments and Due Dates. Any and all Assessments and other charges shall be a lien against each Owner~~'~~'s Lot as provided in Section 1~~1~~2.3. On or before

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the first day of each fiscal year, and the first day of each succeeding payment period in such fiscal year, each Owner shall pay to the Association (at such place as the Board of Directors may direct) that installment of the Annual Assessment which is due during such period. The Board of Directors shall establish one or more payment periods and the due dates for each such payment in each fiscal year; provided, however, that payments shall be due not less than quarterly nor more frequently than monthly unless specifically provided otherwise herein. All sums collected by the Board of Directors with respect to Assessments against the Lots or from any other source may be commingled into a single fund.

~~6.1 (c)~~ 5.1 (d) ~~Initial Budget. Upon taking office, the first Board of Directors shall determine the budget, as defined in this section, for the period commencing thirty (30) days after taking office and ending on the last day of the fiscal year in which such directors take office. The first installment of the Annual Assessment for Common Expenses shall be prorated based upon the number of days remaining in the payment period and shall be due on the earlier of: (i) the date the Lot is conveyed to an Owner other than the Declarant or a Builder or (ii) the date any portion of the Lot is occupied for the first time as evidenced by the issuance by the County of a certificate of occupancy or occupancy permit for such Lot or portion thereof. Any additional amounts due shall be divided by the number of full payment periods (if any) remaining in that fiscal year and paid in equal installments on the first day of each payment period remaining in that fiscal year. Such Assessment shall be levied and become a lien as set forth in Section 12.3. Notwithstanding the foregoing, the Declarant may, at the Declarant's sole option, decide to pay all ordinary operating costs of the Association for a period of time not to exceed two (2) years. If the Declarant so elects, the Association will incur no Common Expenses and thus no regular Annual Assessments will be collected during such time.~~

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~~6.1 (d)~~ Effect of Failure to Prepare or Adopt Budget. ~~For the first fiscal year of the Association following the first conveyance of any Lot to an Owner other than the Declarant or a Builder, and for all fiscal years thereafter, the Board of Directors shall establish the Annual Assessment against each Lot for Common Expenses.~~ The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner~~'~~'s obligation to pay the allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Owner shall continue to pay Assessments at the rate established for the previous fiscal year until notified of the new payment which is due on the first day of the next payment period which begins more than ten (10) days after such new annual or adjusted budget is adopted and the Owner receives such notice.

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~~6.1 (e)~~ 5.1 (e) Pledge of Revenues. The Board of Directors, by a vote of two-thirds of the total number of directors, shall have the right and power to assign and pledge all revenues to be received by the Association, including but not limited to Annual and Additional Assessments in order to secure the repayment of any sums borrowed by the Association from time to time.

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Section ~~6~~5.2. Assessments.

~~6.2 (a)~~ 5.2 (a) Purpose, Calculation of Annual Assessment and Allocation of Rate of Assessment against Lots. Except as otherwise hereinafter set forth, the total amount of the estimated funds required for: (i) the management and Upkeep of the Property; (ii) services to the Lots and Owners; and (iii) to meet obligations of the Association established pursuant to this Declaration or other shared Upkeep agreements shall be assessed annually against the Lots. The Board of Directors shall establish the amount of an Assessment Unit each fiscal year, which shall be calculated by the Board of Directors so as to collect the estimated funds required for such fiscal year. The Assessment Units shall then be allocated among the Lots as follows: (i) Each Single-Family Lot shall be assessed annually one (1) Assessment Unit; (ii) Each Multifamily Lot shall be assessed annually one (1) Assessment Unit for every four (4) dwelling units permitted to be constructed thereon pursuant to applicable zoning ordinances; (iii) Each Commercial Lot shall be assessed annually one (l) Assessment Unit for every five thousand (5,000) square feet of Gross Floor Area in such Lot, rounded up to the next whole Assessment Unit; and (iv) Each Civic Lot shall not be assessed for so long as such Lot is primarily used and occupied for a public purpose and owned by a governmental or non-profit entity.

5.2 (b) Limited Common Expense Assessment. Subject to the provisions set forth in Section ~~6~~5.3, Limited Common Expenses shall be assessed only against the Lots benefited in proportion to their relative Common Expense liability *inter se* or based on usage, as appropriate.

Such Limited Common Expenses shall be determined as follows:

(i) ~~(i)~~ Any Common Expenses incurred by the Association for trash pick-up, parking lot or open space maintenance or similar services, if the Board of Directors determines that the cost of such Upkeep or service varies significantly between housing types, Lot types or geographical location may be assessed specifically against the Lots so served;

(ii) ~~(ii)~~ Any Common Expenses incurred by the Association for the Upkeep of or reserves for Private Streets and Roadways serving a limited number of Single-Family Lots shall be assessed only against the Single-Family Lots served by such Private Streets and Roadways;

(iii) ~~(iii)~~ Any expenses designated in a Supplementary Declaration as Limited Common Expenses shall be paid by the Owners of Lots subject to such Supplementary Declaration;

(iv) ~~(iv)~~ Any services or utilities to Lots which the Board of Directors determines vary significantly based on usage may be assessed against the Lots served based on usage;

(v) ~~(v)~~ The cost of any Upkeep required for private storm drainage easements serving a limited number of specific Lots may be assessed as a Limited Common Expense against the Lots so served;

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~~6.2 (b)~~(vi) ~~(vi)~~ Any expenses proposed by the Board of Directors or a specific group of Owners as Limited Common Expenses against a specific group of Lots and agreed to by Owners entitled to cast a majority of the total number of votes with respect to such Lots~~,~~ may be assessed against such Lots as such Owners may agree or on the basis set forth in Section 5~~6~~.2(a) above. Such Assessment shall be a lien as set forth in Section 11~~2~~.3.

5.2 (c) Additional Assessments. If additional funds are required during any fiscal year, the Board of Directors may levy Additional Assessments on the Lots subject to assessment pursuant to Subsection ~~6~~5.2(a). The Board of Directors shall give notice of any Additional Assessment to the Owners specifying the amount and reasons therefor, and such Additional Assessment shall, unless otherwise specified in the notice, be payable in full with the next periodic installment which is due more than ten (10) days after the date of such notice or in not more than six (6) equal periodic installments, as the Board of Directors may determine. Such Assessment shall be a lien as set forth in Section 1~~2~~1.3.

5.2 (d) Individual Assessments. The Board of Directors shall have the power to assess an Owner's Lot individually for:

(i) ~~(i)~~ for the amount of any costs incurred by the Association pursuant to Section 6~~7~~.2(a) in performing Upkeep that the Owner failed to perform as required thereby;

(ii) ~~(ii)~~ for the amount of any charges imposed on that Owner pursuant to Section 11~~2~~.1(h);

(iii) ~~(iii)~~ for any costs incurred by the Association because of any act, failure to act, violation or negligence for which that Owner is responsible under Section 11~~2~~.1(a);

(iv) ~~(iv)~~ for any charges due for services provided under contract with the Association in accordance with Article 6, Section 6.7;

(v) ~~(v)~~ for any fees charged for individual use of the Common Area; and

~~6.2 (c)~~(vi) ~~(vi)~~ for the amount of any costs incurred by the Association pursuant to Section 15~~6~~.9 in repairing any telecommunications services equipment or facilities damaged or destroyed by the Owner, or such Owner's tenants, guests, invitees, licensees, agents or family members. Each such Assessment shall be due ten (10) days after notice thereof is given to the Owner unless the notice specifies a later date and shall be a lien as set forth in Section 11~~2~~.3.

~~6.2 (d)~~ 5.2 (e) ~~Amenities Fee. Each Builder that purchases a Single Family Lot shall pay to the Declarant at the time of the conveyance of such Single Family Lot to the Builder or at such Later time as may~~

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be determined by the Declarant an amenities fee equal to Two Thousand Dollars ($2,000.00) per Single Family Lot to provide necessary funding for community amenities and facilities. Each Builder that purchases a Multifamily Lot shall pay to the Declarant at the time of the conveyance, of such Multifamily Lot to the Builder or at such later time as may be determined by the Declarant an amenities fee equal to Two Thousand Dollars ($2,000.00) for every four (4) dwelling units permitted to be constructed on such Multifamily Lot. Each Builder that purchases a Commercial Lot shall pay to the Declarant at the time of the conveyance of such Commercial Lot to the Builder or at such later time as may be determined by the Declarant an amenities fee equal to Two Thousand Dollars ($2,000.00) for every five thousand (5,00) square feet of Gross Floor Area attributable to such Commercial Lot. In the sole discretion of the Declarant: (1) the amount of the amenities fee may be increased each fiscal year by up to ten percent (10%) of the amount of the amenities fee during the prior year; and (ii) the amenities fee may be modified, adjusted or increased with respect to all or any portion of the Additional Land pursuant to the terms and conditions of any Supplementary Declaration by which such portion of the Additional Land is subjected to this Declaration.

6.2 (e) Initial Assessment. Each purchaser initial Owner of a Single Family Lot other than the Declarant or a Builder shall pay to the Association at settlement an "“initial assessment”" equal to Two Hundred Dollars ($200.00) per Single Family Lot to provide necessary funding for the Association. Each Owner purchaser of a Multifamily Lot other than the Declarant shall pay to the Association at settlement an initial assessment equal to Two Hundred Dollars ($200.00) for every four dwelling units permitted to be constructed on such Multifamily Lot. Each Owner purchaser of a Commercial Lot other than the Declarant shall pay to the Association at settlement an initial assessment equal to Two Hundred Dollars ($200.00) for every 5,000 square feet of Gross Floor Area attributable to such Commercial Lot. In the sole discretion of the Declarant Association, the amount of the initial assessment may be increased each fiscal year by up to ten percent (10%). Such funds may be used for certain prepaid items, initial equipment, supplies, organizational costs and other start-up costs, or operating expenses, as the Board of Directors may determine. Such funds shall not be used to pay or offset expenses incurred by the Declarant in the development of the Property.

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6.2 (f) 5.2 (f) Telecommunication Service Assessments. Except as otherwise hereinafter set forth, Owners shall be obligated to pay a telecommunication service fee to the Association for further distribution to the Telecom Provider in consideration of and as payment for the Telecom Provider providing telecommunication services to the Owners (the "“Telecommunication Service Fee” or the "“Monthly Owner Fee”"). The Telecommunication Service Fee shall be determined and calculated based upon the Telecom Agreement and may be adjusted, increased or decreased from time to time in accordance with the terms of the Telecom Agreement. The liability of each Owner for and obligation to pay the Telecommunication Service Fee shall commence as to such Owner on that date the Lot is conveyed by deed to such Owner. The Telecommunication Service Fees for the entire Property shall be included in the Association"s annual budget and assessed against each Owner as part of the Annual Assessments, as defined in Section 56.2(a) above, or as a separately stated fee and Assessment, as may be determined by the Declarant, during the Declarant Control Period, and thereafter by the Association, acting through

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its Board of Directors. Such Assessment shall be a lien as set forth in Section 112.3. Notwithstanding the foregoing, the ~~Declarant and Builders and the~~ Owners of Lots which are not subject to the provisions of Article 156 in accordance with Section 156.1 thereof shall not be obligated to pay a Telecommunication Service Fee to the Association.

~~6.2 (g)~~ 5.2 (g) Optional Expenses. Upon request, the Association may provide certain services to Owners ~~(including the Declarant)~~ on a contractual basis pursuant to Section ~~7~~6.~~7~~8; provided, however, that the charge for such services shall be assessed against such Owner's Lots in accordance with the terms of the contract.

~~6.2 (h)~~ 5.2 (h) Reserves. The Board of Directors shall accumulate and maintain reasonable reserves for working capital, operations (including losses due to insurance deductibles), contingencies and replacements. Such funds shall be a Common Expense of the Association and shall be deposited and invested as directed by the Board of Directors. At least seventy-five percent (75%) of such reserve funds shall be deposited in one or more financial institutions the accounts of which are insured by an agency of the United States of America or, in the discretion of the Board of Directors, shall be invested in obligations of, or fully guaranteed as to principal by, the United States of America. Unless otherwise provided in Section 5.~~6.~~2(b) above, reserves for items serving only certain Lots shall be accounted for and funded solely by the Owners of the Lots served (as a Limited Common Expense). As to each separate reserve balance:

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

(2) If regular annual Upkeep extends the useful life of components so that reserves are excessive, the reserves shall be adjusted by reallocation to other budget items or by distribution to each Owner ~~(including the Declarant)~~ in proportion to the percentage (if any) of Assessments paid by such Owner during the last complete fiscal year.

(3) If the reserves are inadequate to meet actual expenditures for any reason (including non-payment of any Owner's Assessment) then the Board of Directors shall, in accordance with Subsection ~~6~~5.2(c), levy an Additional Assessment against the Lots~~, unless the Declarant is then obligated to pay such amounts pursuant to Subsection 6.3(c)~~.

5.2 (i) Surplus and Deficit. Any surplus amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Board of Directors:

(i) be placed in reserve accounts;

~~(i)~~

(ii) be placed in a special account to be expended solely for the general welfare of the Owners;

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~~(ii)~~

(iii) be credited to the next periodic installments due from Owners under the current fiscal year's budget, until exhausted, or

~~(iii)~~

(iv) be distributed to each Owner ~~(including the Declarant)~~ in proportion to the percentage (if any) of Assessments paid by such Owner.

~~6.2 (i)~~ Unless the surplus from the preceding years is applied against the deficit or the budget for the succeeding fiscal year is adjusted to amortize the deficit, any net deficit in expenses (including reserves) shall be assessed promptly against the Owners as an Additional Assessment in accordance with Subsection 5~~6~~.2(c~~b~~)~~, unless the Declarant is then obligated to pay such amounts pursuant to Subsection 6.3(c)~~.

5.2 (j) Lots Added During the Fiscal Year. Notwithstanding any other provision of this Article, whenever any ~~Additional Land is subjected to the Declaration, or any~~ portion of the Submitted Land is legally subdivided and converted into Single Family Lots, Multifamily Lots, or Commercial Lots, the Assessment against each of such Lots ~~(other than unoccupied Lots which are owned by the Declarant or a Builder and exempt from Assessment in accordance with Section 6.3)~~ shall be calculated in the same manner and be due in the same number of installments as the assessment for the remainder of the fiscal year against similar Lots already subject to assessment pursuant to this Declaration. In addition, the Owner of any such Lot added shall pay a prorated portion of any amount payable for the period between the date the Lot becomes subject to assessment pursuant to Section 5~~6~~.2(a) and the due date of the next installment. Such proration of the Assessment shall be based upon the total Assessment due and a 365-day fiscal year. Payment of the prorated portion of the total Assessment will be due no later than the due date of the first installment to be paid by the Owner of any such Lot. The Board of Directors may revise the budget to reflect the addition and/or conversion of such Lots.

~~6.2 (j)~~ 5.2 (k) Improvements Completed During Fiscal Year. For Commercial Lots upon which an improvement is completed during the fiscal year, such Lot shall continue to pay the installment of the Annual Assessment as previously calculated through the end of the installment period during which the certificate of occupancy is issued or the improvement is initially occupied (whichever occurs first). From and after the first day of the next installment period, such Commercial Lot shall pay an Annual Assessment based upon the completed improvement.

5.2 (l) Minimum Service Levels. Without a Majority Vote of the Owners, the Board of Directors shall not in any one fiscal year reduce (1) any line item in the annual operating budget in excess of ten percent (10%); or (2) the total assessment for Common Expenses for the fiscal year by more than twenty percent (20%) if it would require a material reduction in the level of services to be provided.

~~Section 6.3. Assessment against Lots Owned by the Declarant, Landowners and Builders; Exemptions.~~

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~~6.3 (a) One-time Assessment for Builders. If so determined by the Declarant, a Builder acquiring a Single Family Lot, Multifamily Lot or Commercial Lot shall pay a one-time Assessment in the amount as follows: (i) Single Family Lots: Two Hundred Dollars ($200.00) for each Single Family Lot so acquired; (ii) Multifamily Lots: Two Hundred Dollars ($200.00) for each residential dwelling unit permitted to be constructed on each Multifamily Lot so acquired; and (iii) Commercial Lots: Two Hundred Dollars ($200.00) for every 5,000 square feet of Gross Floor Area (rounded up to the next increment of 5,000 square feet) in such Lot. The One-time Assessment shall be due upon the date of conveyance of the Lot to the Builder. At the sole discretion of the Declarant, the above amounts may be increased each fiscal year after the first fiscal year by up to ten percent (10%). After the payment of the One-time Assessment, the applicable Lot shall be exempt from further assessment until conveyed to an Owner other than the Declarant or a Builder pursuant to Section 6.3(d) below.~~

~~6.3 (b) Declarant/Landowner Assessment. Lots owned by the Declarant and/or any Landowner shall be exempt from assessment until the earlier of: (1) conveyance of such Lot to an Owner other than the Declarant and/or a Landowner; or (2) completion of a residential dwelling unit or commercial building thereon and the issuance of a certificate of occupancy or use permit therefor.~~

~~6.3 (c) Declarant/Landowner/Builder Liability for Upkeep. For so long as the Declarant, a Landowner, or a Builder is exempt from full Assessment pursuant to Section 6.3 (a) or (b) above or pursuant to Section 6.3 (d) below, the Declarant, Landowner or Builder, as the applicable Owner of such Lot, shall be solely and exclusively responsible for any and all costs or expenses associated with the Upkeep of any Lot owned by the Declarant, the Landowner or the Builder, respectively.~~

~~6.3 (d) Exemptions. The Common Area, common area within any Subassociation, and any property dedicated or conveyed to a public authority or exempt from the imposition of real property taxes pursuant to the Virginia Code shall be exempt from any and all assessment hereunder and the lien created thereby. The exemption from paying Assessments shall not apply to Single Family Lots used for model home purposes. A Multifamily Lot or Commercial Lot shall be subject to paying the full Assessment only after the earlier of (i) issuance of a certificate of occupancy or occupancy permit for any portion of such Lot or (ii) two (2) years after such Lot is subjected to this Declaration.~~

Section ~~5~~6.~~3~~4. Liability for Common Expenses.

5.3 (a) Owner Liability. Each Owner of a Lot by acceptance of a deed therefor, whether or not so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association all Common Expenses, including Limited Common Expenses, and other charges assessed by the Board of Directors pursuant to the provisions of this Declaration. Each Owner shall be personally liable for all Assessments against such Owner~~'~~'s Lot. If a Lot is owned by more than one (1) Owner, then~~an~~ all of the Owners of such Lot shall be jointly and severally liable for all assessments. No Owner may be exempted from liability for the Assessment

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for Common Expenses by reason of waiver of the use or enjoyment of any of the Common Area or by abandonment of the Lot.

~~6.4 (a)~~ No Owner shall be liable for the payment of any part of the Common Expenses that come due and are assessed against the Lot after the date of recordation of a conveyance by such Owner in fee of such Lot. Prior to or at the time of any such conveyance, all liens, unpaid charges and Assessments shall be paid in full and discharged. The purchaser of a Lot shall be jointly and severally liable with the selling Owner for all unpaid Assessments against the selling Owner for: (i) the amount shown on the Statement of Common Expenses; (ii) if no Statement of Common Expenses is obtained, the amount shown on the assessment or judgment lien recorded against the Lot as filed in the Land Records; or (iii) if no Statement of the Common Expenses is obtained and no assessment or judgment lien has been filed, the amount owed shall not exceed six (6) monthly installments of the Annual Assessment for Common Expenses, including Limited Common Expenses, in any case without prejudice to the purchasing Owner's right to recover from the selling Owner amounts paid by the purchaser therefor. The Lot also shall remain subject to a lien for the amount owed to the Association in accordance with this Section until such amount has been paid. Any purchaser of a Lot may rely on a Statement of Common Expenses obtained pursuant to Section ~~6~~5.~~6~~5.

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~~6.4 (b)~~ 5.3 (b) Mortgagee Liability. Each Mortgagee who acquires title to any Lot by virtue of foreclosure or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid Assessments or charges against such Lot which accrued prior to the time such Mortgagee or purchaser acquires title to such Lot or comes into possession thereof, whichever first occurs, except as provided below and for claims for a pro~~Era~~ rata share of such Assessments or charges resulting from a pro rata reallocation of such Assessments or charges to all Lots including the mortgaged Lot assessed after the Mortgagee or purchaser acquires title to such Lot or comes into possession thereof, whichever first occurs. The lien created by Section 1~~2~~1.3 shall cease to exist with respect to Assessments and charges levied prior to the time title is transferred by foreclosure or by deed or assignment in lieu thereof, or the Mortgagee or purchaser acquires title to such Lot or comes into possession thereof; Provided, however, that if the proceeds of a foreclosure exceed the total amount due to the Mortgagee, the excess shall first be paid to the Association and applied to the satisfaction of the Association's lien created by Section 1~~1~~2.3.

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Section ~~5~~6.~~4~~5. Late Charge for Non-Payment of Assessments. Any Assessment, or installment thereof, not paid within ten (10) days after the due date shall be delinquent and shall accrue a one-time late charge in the amount of one-half of one percent (0.5%) of such Assessment for Commercial or Multifamily Lots or Twenty-five Dollars ($25.00) for each Single-Family Lot, or such other amount as may be established from time to time by the Board of Directors. The Board of Directors, or the Managing Agent at the request of the Board of Directors, shall take prompt action to collect any Assessments for Common Expenses due from any Owner that remain unpaid for more than thirty (30) days after the due date for payment thereof. The late charge is in addition to the Association's other enforcement powers pursuant to Article 1~~1~~2 hereof.

Section ~~5~~6.~~6~~5. Statement of Common Expenses. The Board of Directors or Managing Agent shall provide any Owner, contract purchaser or Mortgagee, within fourteen (14) days after

a written request therefor (or within such other time period as may be required by law), with a written statement of all Assessments due and owing with respect to a specific Lot (or a statement that the amount of unpaid Assessments is zero) (~~"~~"Statement of Common Expenses"~~"~~) as part of the ~~"~~"Association Disclosure Packet"~~"~~ substantially in the form attached as Exhibit B~~A~~ to the Bylaws or otherwise. No contract purchaser, Mortgagee or purchaser from a Mortgagee requesting such a statement shall be liable for, nor shall the Lot conveyed to such Person relying on such statement be subject to a lien for, any unpaid Assessments due prior to the date of such statement in excess of the amount set forth on such statement; provided, however, that this Section shall not be interpreted to release any Person from personal liability for such Assessments levied while such Person owned the Lot. The Board of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation.

Section ~~5~~6.~~7~~6. Assessment from Lots Subject to Sub-associations. With respect to any Annual or Additional Assessments provided for herein which are payable by Owners of Lots which are also members of a Sub-association, the Board of Directors may elect by resolution to collect such Assessments directly from the Sub-association, if so determined by the Board of Directors. In such event, payment of such Assessments shall be an obligation of and shall be due and owing by such Sub-association to the Association, but each Owner within the Sub-association shall remain personally liable for payment of the Assessment against such and each Owner's Lot and each such Lot shall remain subject to a lien in favor of the Association for Assessments, until such time as the amount due and owing by the Sub-association to the Association with respect to such Owner's Lot is paid and satisfied in full. If the Board of Directors elects to collect Assessments from such Sub-association, then all notices regarding Assessments against such Lots located within the Sub-association shall be sent to such Sub-association, but notices of any intention to file or perfect a lien upon an Owner's Lot shall also be sent to the Owner of the Lot. This Section shall not limit or waive any of the Association's remedies for non-payment of Assessments. If any Sub-association does not pay the Assessment levied against such Sub-association then the Owner of any Lot located within the Sub-association shall have the right to pay the portion of such Assessment attributable to such Owner's Lot directly to the Association, and such Owner's Lot shall not be subject to further Assessment or lien in favor of the Association or the Sub-association with respect to such Assessment.

Section 5.7. Collection of Assessments. All Assessments and other charges assessed by the Board of Directors, together with interest, late fees and costs of collection thereof, including attorney's fees, shall also be the personal obligation of the Owner in accordance with Section 11.3 (a). All attorney fees and other collection costs incurred by the Association in the collection of an Owner's delinquent account shall be deemed assessed and posted to the delinquent Owner's assessment account as they are incurred or as collection action is taken, regardless of whether lawsuits or liens are filed. Collection costs include, for example, attorney's fees, delinquency costs charged by the Association's managing agent, mailing costs, bad check fees, and court costs.

The Association may, but is not required to, send notices of delinquency or acceleration prior to filing an action to collect the sums owed to the Association. The Association may send such notices by first-class mail, hand delivery, or by electronic means, provided sufficient proof of the electronic delivery is retained. Further, the Association has the right to dictate the method by which it will accept delinquent payments, including, but not limited to, requiring delinquent

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payments to be submitted directly to the law firm handling collections for delinquent owner accounts.

ARTICLE 67

OPERATION OF THE PROPERTY

Section 67.1. Upkeep by the Association.

6.1 (a) General. The Association shall be responsible for the management and Upkeep of all of the Common Area and Reserved Common Area, such Upkeep to include without limitation:

(i) (i) Upkeep of all open space areas, including grass cutting, trash collection, landscaping and lawn maintenance;

(ii) (ii) Upkeep of the Private Streets and Roadways, entrance features, berms, fences, sound walls, tree save areas, dams, street lights, sidewalks, bus shelters, trails, walks, paths and parking areas, including snow and ice removal and repair and replacement;

(i)(iii) (iii) Upkeep of all other improvements located on the Common Area, including without limitation all associated amenities or facilities including recreational facilities.

Notwithstanding the foregoing, Upkeep of lead sidewalks, driveway aprons and utility laterals shall be provided by the Owner of the Lot served thereby or, if so determined by the Board of Directors, by the Association at such Owner''s expense. The Association shall not have any other responsibility for the Upkeep of any Lot except for those responsibilities and duties specifically enumerated within the Association Documents for easement areas designated pursuant to Section 3.23, this Section 76.1, or other areas described in the Association Documents, other documents recorded in the chain of title to the Property or separate easement agreements.

Notwithstanding the general provisions for Upkeep of Common Area set forth in this Section, other specific Upkeep responsibilities and allocations of Upkeep costs shall be determined by any provisions therefor indicated in either a Supplementary Declaration or plat subjecting such Common Area to the Declaration. Except as otherwise provided in this Section 76.1, the cost of all management and Upkeep under this Section 76.1 shall be assessed against all Lots as a Common Expense or Limited Common Expense, as appropriate, depending upon the service provided. If the Board of Directors determines that certain Upkeep was necessitated by the negligence, misuse or misconductact of an Owner, or their family member, tenant, guest, employee, or contractor, or for which an Owner is responsible pursuant to Section 112.1, the cost of such Upkeep shall be assessed against such Owner''s Lot pursuant to Subsections 56.2(c) and 112.1(a), Further, the Board of Directors may determine that all or a part of the Upkeep of any portion of the Common Area designated as Reserved Common Area shall be performed by the Person having the exclusive right to use the same, at such Person''s sole expense. Subject to Section 56.2(ml), the Board of

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Directors shall establish the standards for Upkeep of any and all of the Common Area in its sole discretion.

6.1 (b) Storm Water Management. The Association may provide additional Upkeep of the storm drainage and storm water management facilities and easements on or serving the Property to the extent not performed by the ~~Declarant and/or the~~ County. If permitted by applicable law and required by the County, the Association shall be responsible for payment of a contribution toward the Upkeep of off-site storm drainage facilities and/or storm water management ponds and facilities serving the Property and the cost of such contribution shall be assessed against the Owners as a Common Expense.

The Owner of any Lot on which there is located an easement for storm water drainage, management or control shall be responsible for the following items of ordinary day-to-day maintenance thereof, where applicable, including grass mowing with reasonable frequency and the removal of debris and other matter to the best of Owner's ability where such debris or matter has impeded or threatens to impede the free flow of storm water over, under, across or through the easement or drainage structures. Such Owner shall also be responsible to notify the Association of:

(i) ~~(i)~~ any known or obvious defects in any fencing, pipes or other structures, if any, surrounding or within the easement;

(ii) ~~(ii)~~ any debris or other matter which is beyond such Owner's ability to remove; and

(iii) ~~(iii)~~ any known and obvious excessive erosion within the area of the easement.

~~7.1 (a)~~ The ~~Declarant and the~~ Association may utilize any of the easements set forth in Article 3 hereof to enter upon any Lot to the extent necessary for Upkeep of such facilities. Notwithstanding the foregoing, certain storm water drainage easements may have ~~be~~ been designated by the Declarant as private storm water drainage easements serving one or more specific Lots. In such cases, although the Association may maintain such easements, the cost of such Upkeep shall be a Limited Common Expense assessed against the Lots served by such easements. Notwithstanding the foregoing, the County shall maintain the physical infrastructure of storm drainage facilities contained within the easement, including pipes and other structures, inlets and catch basins, and shall remove debris and other obstructions from open channels.

6.1 (c) Entrance Features, Sign~~, Features, Sings~~ and Rights-of-Way. The Board of Directors shall provide for Upkeep of the center islands and road frontage (including public rights-of-way, but excluding pavement areas, except for snow removal) of all public roads within, adjacent to or leading to the Property, such Upkeep to include without limitation:

(i) ~~(i)~~ entrance features;

(ii) ~~(ii)~~ ~~s~~sidewalks, trails and paths;

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(iii) ~~(iii)~~ project, street, traffic and directional signage and accessories, including poles;

(iv) ~~(iv)~~ bus shelters;

(v) ~~(v)~~ street lights and accessories, including poles;

(vi) ~~(vi)~~ common mail box pavilions;

(vii) ~~(vii)~~ landscaping and associated lighting and irrigation systems; and

(viii) ~~(viii)~~ hardscape, berms, fences, sound walls, save areas, or dam~~rn~~s established in connection with the construction of, and located in, dedicated public rights-of-way, and all other improvements related thereto to the extent not accepted for maintenance by the appropriate governmental authorities and to the extent permitted by the appropriate governmental authorities.

~~7.1 (b)~~ The Association shall maintain the items listed above located within the Property or within the public rights-of-way adjacent to or leading to the Property to the extent required and permitted by the appropriate governmental authorities. The governing documents for any Sub-association may provide for any of the foregoing obligations to be performed by such Sub-association with respect to that portion of the Property governed by such Sub-association.

~~7.1 (c)~~ 6.1 (d) Other Services. To the extent determined to be reasonably necessary or desirable by the Board of Directors, the Association may provide trash collection, recycling programs, water, electricity, gas, or other utilities, cable television, telecommunications, or broadband services, transportation or similar services to the Owners as a Common Expense or a Limited Common Expense, as appropriate. The Association must provide trash and recycling collection service and any other services to the extent required by the Proffers.

~~7.1 (d)~~ 6.1 (e) Shared Maintenance. The Board of Directors may enter into shared maintenance agreements to maintain areas whether or not located within the Property to the extent such areas benefit any portion of the Property. Such areas may include without limitation storm water management or drainage easements and facilities, landscaping, entrance features, signage, trails, sidewalks, private streets and areas along streets and roadways (including within public rights-of-way to the extent not maintained by the appropriate governmental authorities, excluding street pavement areas). The amounts due and payable by the Association pursuant to such shared maintenance agreements shall be a Common Expense, or a Limited Common Expense, as determined by the Board of Directors.

Section ~~7~~6.2. Upkeep by the Owners.

6.2 (a) Individual Upkeep. Each Owner shall keep such Owner''s Lot and all improvements located on the Lot in good order, condition and repair and in a clean, healthy and

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sanitary condition, including without limitation all necessary grounds maintenance and prompt snow removal, in accordance with local ordinances, except within the easement areas maintained by the Association and except as may be otherwise provided in this Declaration or in a Supplementary Declaration. Each Owner shall maintain the lead sidewalk, driveway, driveway apron and utility laterals serving each Owner's Lot, even if located within the Common Area. Each Owner shall also provide snow removal for any sidewalks located immediately adjacent to such Owner's Lot. Each Owner shall perform the foregoing maintenance responsibilities in such manner as shall not unreasonably disturb or interfere with the reasonable enjoyment by the Owners of other Lots.

~~7.2 (a)~~ If any Owner shall fail to keep such Owner's Lot in as good repair and in a neat and orderly condition, consistent herewith and with such Rules and Regulations as the Board of Directors may promulgate, then the Board of Directors or appropriate Covenants Committee may, pursuant to resolution, give written notice to such Owner of such failure and/or the condition complained of, describing generally the action to be taken to cure and correct that condition. If the Owner fails to take the actions described or to otherwise cure and correct the condition within thirty (30) days after the date the notice is given, or such other period as may be specified in the notice if the circumstances warrant a different period, the Board of Directors or appropriate Covenants Committee shall have the right, but not the obligation, pursuant to Section 3.~~3~~2 and Subsection 1~~2~~.1(e) and any resolutions adopted by the Board of Directors, to cure and correct any such failure or condition by taking such action (or by causing such action to be taken) as was generally described in the notice. The costs incurred in curing and correcting the condition shall be assessed against such Owner's Lot in accordance with Subsection ~~5~~6.2(d) and Section 1~~2~~1.1. The Owner shall reimburse the Association for one hundred fifteen percent (115%) of the reasonable costs and expenses in connection therewith within thirty (30) days after delivery of a written demand for payment of such expenses. What constitutes reasonable costs and expenses is to be determined by the Association's Board of Directors or appropriate Covenants Committee.

6.2 (b) Upkeep by Sub-associations. Any Sub-association shall be responsible for the Upkeep of the portion of the Property governed by such Sub-association, including the retail area or office park or the common elements of the condominium or cooperative, as applicable. To the extent set forth in any Supplemental Declaration, any Sub-association shall be responsible for the management and Upkeep of all of the Common Area and Reserved Common Area located within the Sub-association in good order, condition and repair and in a clean, healthy and sanitary condition (in keeping with the general character of the Property) including without limitation all necessary grounds Upkeep as set forth in Section ~~7~~6.1(a) above.~~.~~

~~7.2 (b)~~ The Sub-association may contract with third parties, including the Association, to provide the necessary Upkeep and management services to perform its responsibilities under this section. If any Sub-association shall fail to keep the Property located within such Sub-association in good repair and in a neat and orderly condition, consistent herewith and with such Rules and Regulations as the Board of Directors may promulgate, then the Board of Directors or appropriate Covenants Committee may, pursuant to resolution, give written notice to such Sub-association of such failure and/or the condition complained of, describing generally the action to be taken to rectify that condition. If such portion of the Property for which such Sub-association has Upkeep responsibility is not maintained in as good repair and condition as when acquired (normal wear

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and tear excepted) and in a neat and orderly condition, consistent with such Rules and Regulations as the Board of Directors may promulgate, then the Board of Directors may, pursuant to resolution, give notice to that Sub-association of the condition complained of, specifying generally the action to be taken to rectify the condition. If the Sub-association fails to take the action specified by the Board of Directors or to otherwise rectify that condition within thirty (30) days after the date the notice is given, or such other period as may be specified in the notice if the circumstances warrant a different period, the Board of Directors shall have the right pursuant to Section 3.2~~3~~ and Section 11~~2~~.1(e) and any resolutions adopted by the Board of Directors, to rectify the condition by taking such action (or by causing such action to be taken) as was specified in the notice. The costs incurred in curing and correcting the condition shall be assessed and charged against such Sub-association. The Sub-association shall reimburse the Association for one hundred fifteen percent (115%) of the reasonable costs and expenses in connection therewith within thirty (30) days after delivery of a written demand for payment of such expenses. What constitutes reasonable costs and expenses is to be determined by the Association's Board of Directors or appropriate Covenants Committee.

~~7.2 (c)~~ 6.2 (c) Upkeep of Multifamily Lots and Commercial Lots. The Upkeep duties and obligations of the Owners of Multifamily Lots and Commercial Lots will be determined as provided by the Commercial Review Committee and the applicable Supplementary Declaration. At a minimum, the Owners of Multifamily Lots and Commercial Lots shall be required to maintain such Lots to a standard commensurate with the rest of the Property.

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Section 6~~7~~.3. Manner of Repair and Replacement. All repairs and replacements by the Association or the Owners shall be substantially similar to the original construction and installation and shall be of first-class quality, but may be made with contemporary materials. The method of approving payment vouchers for all repairs and replacements made by the Association shall be determined by the Board of Directors.

Section ~~7~~6.4. Additions, Alterations or Improvements by the Board of Directors. Whenever in the judgment of the Board of Directors the Common Area shall require capital additions, alterations or improvements (other than for Upkeep) costing in excess of twenty percent (20%) in the aggregate of the total Annual Assessment for Common Expenses for that fiscal year during any period of twelve (12) consecutive months, the making of such additions, alterations or improvements shall require a Majority Vote in accordance with Section 14~~5~~.43, and the Board of Directors shall pay the cost from existing funds or assess all Owners benefited for the cost thereof as a Common Expense or Limited Common Expense, depending on the nature of the improvement, as determined by the Board of Directors. Any capital additions, alterations or improvements (other than for Upkeep) costing in the aggregate twenty percent (20%) or less of the total Annual Assessment for Common Expenses for that fiscal year during any period of twelve (12) consecutive months may be made by the Board of Directors in its sole discretion without the prior approval of the Owners and the cost thereof shall constitute a Common Expense or a Limited Common Expense, depending on the nature of the improvements as determined by the Board of Directors.

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Section 6~~7~~.5. Additions, Alterations or Improvements by the Owners. Any addition, alteration or improvement by an Owner, including but not limited to the construction, erection or installation of any building, fence, wall, shed, animal pen or shelter, exterior lighting, sign, mailbox or mailbox support, deck, patio, lawn or garden statue, play set, swing set or other structure or

improvements (each of the foregoing being hereinafter referred to as an "Improvement") on a Lot, including any site work in preparation therefor, and before commencing any alteration, enlargement, demolition or removal of an Improvement or any portion thereof in a manner that alters the exterior appearance (including paint color) of the Improvement or of the Lot on which it is situatiated, shall be subject to the prior review and approval by the Board of Directors or appropriate Covenants Committee in accordance with the provisions of Article 89.

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~~**Section 7.6. Restriction on Further Subdivision.** No Lot shall be further subdivided or separated into smaller Lots by any Owner during the Development Period, except with the prior written approval of the Declarant. The Declarant shall approve a subdivision that does not increase the number of Lots or dwelling units permitted as the case may be. Any open space parcel shall be conveyed to the Association, a Subassociation or be part of the common elements of a condominium or cooperative association or otherwise conveyed as approved by the Declarant during the Development Period. The Declarant may approve other subdivisions, which approval shall be given or withheld in Declarant's sole discretion. The Board of Directors shall also be informed of any resubdivision. This Section does not apply to boundary line adjustments or the adjustment of unit boundaries within any portion of the Property subjected to a condominium or cooperative regime which does not increase the total number of units in the condominium or cooperative regime. This Section shall not require the approval of the Declarant or the Board of Directors for deeds of correction, deeds to resolve boundary line disputes and similar corrective instruments.~~

Section ~~7~~6.~~7~~6. Disclaimer of Bailee Liability.

6.6 (a) Bailee. The Board of Directors, the Association, and any Owner ~~and the Declarant~~ shall not be considered a bailee of any personal property stored or placed on the Common Area (including property located in vehicles parked on the Common Area), whether or not exclusive possession of the particular area is given to an Owner for parking or otherwise, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence~~, except to the extent covered by insurance in excess of any applicable deductible~~. In no event shall the Board of Directors, the Association, or any Owner ~~or the Declarant~~ be liable for any secondary, incidental, consequential, punitive or exemplary damages of any type or for loss of profits.

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~~7.7 (a)~~

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~~7.7 (b)~~ 6.6 (b) Operational General Disclaimer. The Association shall not be liable for any interruption, suspension, discontinuation or other failure of water supply or utility service or other services to be obtained by the Association or paid for as a Common Expense. The Association shall not be liable for personal injury or property damage caused by the weather, riot, act of war or terrorism, act of God or strike or by any Owner, or any other Person, or resulting from electricity, water, gas, snow or ice which leaks or flows from or over any portion of the Property or from any pipe, drain, conduit, appliance or equipment, or any secondary, incidental, consequential, punitive or exemplary damages of any type or for loss of profits. No reduction, diminution, offset or abatement of any Assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Property by the Association or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any governmental authority. This subsection is not intended nor shall

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it be construed to relieve any insurer of its contractual obligations under any policy benefiting the Association or an Owner.

Section ~~7~~6.~~8~~7. Services to Owners and Sub-associations. The Board of Directors may, in its sole discretion, provide or make available additional services to Owners ~~(including the Declarant)~~, and/or to any Sub-association on a contractual basis at the request of such Persons. The charges for such services shall be assessed against the Lot of the Owner or charged to the Sub-association that receives such additional services. Services which may be provided to a Sub-association include, without limitation:

(i) ~~(i)~~ the Upkeep of any common areas owned by an owners association or the common elements maintained by the condominium unit owners association or cooperative association located within the Sub-association;

~~(ii)~~

(ii) the enforcement of the terms and conditions of any declaration creating a condominium or cooperative association or governing the association or similar planned community;

(iii) ~~(iii)~~ the collection of assessments under the declaration creating a condominium or cooperative association or governing association or similar planned community on behalf of and/or in the name of the Sub-association;

(iv) ~~(iv)~~ financial and physical property management services; and

(v) ~~(v)~~ obtaining insurance for such Sub-association.

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ARTICLE ~~7~~8

RESTRICTIONS ON USE OF LOTS AND COMMON AREA; RULES AND REGULATIONS

Section ~~8~~7.1 Permitted Uses. Except as otherwise provided in the Association Documents, each Lot and the Common Area may be occupied and used for any purpose for which such Lot is zoned and designed and which is permissible under local zoning ordinances and applicable use and occupancy permits. ~~Notwithstanding the foregoing, nothing in the Association Documents shall be construed to prohibit the Declarant or its designees from using any Lot owned by the Declarant (or any other Lot with the permission of the Owner thereof) or any portion of the Common Area for promotional, marketing, display or customer service purposes (such as a visitors' center) or for the settlement of sales of Lots. Further, the Declarant specifically reserves the right to operate a construction office or a rental, real estate brokerage and management office at any time on. Lots owned or leased by the Declarant (or any other Lot with the permission of the Owner thereof) and on any portion of the Common Area, to the extent permitted by law. The Declarant may assign its rights under this subsection to or share such rights with one or more other Persons, exclusively, simultaneously or consecutively with respect to the Common Area and Lots owned or leased by the Declarant or such Persons.~~

Section ~~8~~7.2. Restrictions on Use.

~~8.2 (a)~~ 7.2 (a) No Unsafe Activities or Waste. Nothing shall be done or permitted to be done or kept on the Property which will increase the rate of insurance for the Common Area or any part thereof applicable for permitted uses without the prior written consent of the Board of Directors; including without limitation any activities which are unsafe or hazardous with respect to any person or property. No Person shall permit anything to be done or kept on the Property which will result in the cancellation of any insurance or materially increase the cost of any insurance premium associated therewith on the Common Area or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste shall be left, deposited onto, or stored ~~will be committed~~ on the Common Area.

~~8.2 (b)~~ 7.2 (b) Compliance with Laws. No improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of the County and all governmental agencies having jurisdiction over the Property shall be observed~~; provided, however, that the Declarant during the Declarant Control Period, the Association and/or the Board of Directors shall have the power but not the obligation to enforce such laws, ordinances and regulations, enforcement being the primary responsibility of appropriate government officials~~. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction over the Property relating to any portion thereof shall be complied with, by and at the sole expense of the Owner, the Association or any Sub-association whichever shall have the obligation for the Upkeep of such portion of the Property, and, if the Association, then the cost of such compliance shall be a Common Expense or Limited Common Expense, as appropriate and as determined by the Board of Directors in its sole discretion.

~~8.2 (c)~~ 7.2 (c) Harmful Discharges. No dust, sweepings, dirt, cinders, odors, gases or other substances shall be discharged into the atmosphere (other than normal residential chimney or grill emissions or as produced by normal restaurant or food preparation activities), no production, storage or discharge of hazardous or contaminated wastes on the Property or discharges of liquid or solid wastes or other harmful matter into the ground or any body of water, if such emission, production, storage or discharge may adversely affect the use or intended use of any portion of the Property or may adversely affect the health, safety or comfort of the occupants of the Lots. No waste nor any substance or materials of any kind shall be discharged into any public or private sewer serving the Property or any part thereof in violation of any regulation of the County or any governmental agencies having jurisdiction over such public or private sewer.

~~8.2 (d)~~ 7.2 (d) Noise. No Person shall cause any unreasonably loud noise (except for security devices) anywhere on the Property, nor shall any Person permit or engage in any activity, practice or behavior for the purpose of causing annoyance, discomfort or disturbance to any Person lawfully present on any portion of the Property. No noxious or offensive noise or behavior is permitted that impacts others' use and enjoyment of the Property.

~~8.2 (e)~~ 7.2 (e) Obstructions. No Person shall obstruct any of the Common Area or otherwise impede the rightful access of any other Person on any portion of the Property upon which such Person has the right to be. No Person shall place or cause or permit anything to be placed on, under or in any portion of the Common Area without the approval of the Board of Directors.

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Nothing shall be modified, altered or constructed in or removed from the Common Area without the prior written approval of the Board of Directors.

~~8.2 (f)~~ 7.2 (f) Association Property. The Common Area shall be used only for the furnishing of the services and facilities for which the same is reasonably suited. The improvements located on the Common Area shall be used only for their intended purposes. Except as otherwise expressly provided in the Association Documents, no Owner shall make any private, exclusive or proprietary use of any of the Common Area (except those areas, if any, designated as Reserved Common Area) without the prior written approval of the Board of Directors. No Person shall employ, engage or direct any employee of the Association on any private business of such Owner, or otherwise direct, supervise or in any manner attempt to assert control over such employee of the Association during the hours such employee is employed by the Association.

~~8.2 (g)~~ 7.2 (g) Mining. No Lot shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth except with the prior written approval of the ~~Declarant, during the Development Period, or the~~ Board of Directors ~~thereafter~~.

~~8.2 (h)~~ 7.2 (h) Signs and Flags. ~~Except for such signs, flags and banners as may be posted by the Declarant or a Builder (as permitted by the Declarant) for promotional or marketing purposes or by the Association, no~~No signs, flags or banners of any character shall be erected, posted or displayed in a location that does not comply with Design Guidelines without the prior written approval of the Covenants Committee. An American Flag and the flag of any one of the United States may only be flown in the size, manner and place permitted by the Covenants Committee and as otherwise permitted by the Virginia Code. No free-standing flagpoles are permitted, except as may have been installed by the Declarant during the Development Period or the Association and except on Commercial Lots or Multifamily Lots if permitted by the Commercial Review Committee or as otherwise permitted by the Virginia Code. The Covenants Committee shall allow signs reasonably necessary for commercial purposes on Commercial Lots, Multifamily Lots, Civic Lots and Single-Family Lots intended for and containing nonresidential uses, if in compliance with the applicable Design Guidelines.

~~8.2 (i)~~ 7.2 (i) Trash. The storage and collection of trash shall be in accordance with the Rules and Regulations. Except in connection with construction activities, no burning of any trash and no accumulation or storage of litter, refuse, bulk materials, building materials or trash of any other kind shall be permitted on any Lot. Trash containers shall not be permitted to remain in a location visible from the neighboring property except on days of trash collection. No incinerator shall be kept or maintained upon any Lot without the prior written approval of ~~the Declarant, during the Development Period, or~~ the Board of Directors ~~thereafter~~.

7.2 (j) Landscaping; Utility Lines. No tree, hedge or other landscape feature shall be planted or maintained in a location which obstructs sight-lines for vehicular traffic on public or private streets. Pavement, plantings and other landscape materials shall not be placed or permitted to remain upon any Lot:

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(i) ~~(i)~~ if such materials may damage or interfere with any easement for the installation or Upkeep of utilities;

(ii) ~~(ii)~~ in violation of the requirements of such easements;

(iii) ~~(iii)~~ unless in conformity with public utility standards; or

(iv) ~~(iv)~~ if such materials may unreasonably change, obstruct or retard direction or flow of any storm water or drainage channels.

~~8.2 (j)~~ Except for hoses and the like which are reasonably necessary in connection with construction activities or normal landscape Upkeep, no water pipe, sewer pipe, gas pipe, drainage pipe, television or telephone cable, electric line or other similar transmission line shall be installed or maintained upon any Lot above the surface of the ground, except for those existing prior to the recordation of the Declaration or except with the prior written approval of the ~~Declarant, during the Development Period, or the~~ Board of Directors ~~thereafter~~.

7.2 (k) Trees. No live trees with a diameter in excess of four inches (4"), measured twelve inches (12") above ground, nor trees in excess of two inches (2") in diameter, similarly measured, which are generally known as flowering trees (such as dogwood or redbud) or as broad leaf evergreens (such as holly, laurel, or rhododendron), no live vegetation on slopes of greater than twenty percent (20%) gradient, marked "no cut" areas or shown as tree preservation areas on approved site plans may be cut without prior approval of the appropriate Covenants Committee. No live trees planted ~~by the Declarant or a Builder~~ to comply with applicable ordinances or other governmental requirements shall be cut without the prior written approval of the appropriate Covenants Committee. No live trees located within tree conservation areas shall be removed without prior approval of the appropriate Covenants Committee and the County, if applicable. The Association shall establish rules for cutting of trees to allow for selective clearing or cutting. If any tree planted ~~by the Declarant or a Builder~~ as part of the original landscaping plan for the ~~Property~~ Common Area dies or requires removal, the Association shall replace the tree with a substantially similar species. If any tree planted as part of the original landscaping plan for a Lot, the Lot Owner shall replace the tree with a substantially similar species as approved by the appropriate Covenants Committee.

~~8.2 (k)~~

~~8.2 (l)~~ 7.2 (l) Antennas. No exterior antenna, satellite dish or similar exterior improvement shall be maintained upon the Property without the prior written approval of the Board of Directors ~~or the Declarant~~; provided, however, that the Association shall not prevent access to telecommunications services in violation of applicable law. Exterior antennas, satellite dishes greater than one meter (39 inches) in diameter, or amateur radio equipment generally will not be allowed upon the Property; provided, however, that: (i) an Owner may install an antenna permitted by the Association's antenna rules upon prior written notice to the Board of Directors; (ii) the Board of Directors ~~or the Declarant~~ may approve other antennas in the appropriate circumstances; (iii) a Commercial Owner may install an antenna required for business purposes if it is in compliance with the Design Guidelines; and (iv) the Board of Directors may establish additional or different guidelines for antennas as technology changes. Therefore, equipment that may have been unacceptable with the old technology may become acceptable as technology changes. In

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addition, equipment that may have been acceptable under old technology may be prohibited as technology changes. In which case, previously approved and installed equipment may remain, but future requests for outdated equipment may be denied and replacement equipment may be required to meet the most current Design Guidelines. Notwithstanding the foregoing, the Board of Directors may install and maintain antennas, satellite dishes and similar equipment on the Common Area to serve the Property.

~~8.2 (m)~~ 7.2 (m) Fences. Except for any originally installed fence ~~installed~~ by the Declarant ~~or a Builder~~ (as permitted by the Declarant) or by the Association, no fence shall be installed except in compliance with the Design Guidelines or with the prior written approval of the appropriate Covenants Committee. No chain link fence shall be permitted on the Property without the prior written approval of the Board of Directors ~~or the Declarant; provided, however, that the Declarant or its designees may erect a chain link fence for the temporary storage of building materials, for the protection of building sites or around storm water management ponds or for other construction or safety purposes~~.

7.2 (n) Vehicles. Except in connection with construction activities and as provided herein with respect to Commercial Lots, no commercial vehicles over three thousand five hundred (3500) pounds gross weight, taxicabs or trailers, campers, recreational vehicles, boats and other large vehicles, including grounds maintenance equipment, may be parked or used on any portion of the Property, unless expressly permitted by the Board of Directors and only in such parking areas or for such time periods (if any) as may be designated for such purpose. Except as may be modified by resolution of the Board of Directors, prohibited vehicles would include, without limitation, any vehicle:

(i) ~~(i)~~ with a load capacity in excess of one ton,

(ii) ~~(ii)~~ oversized (higher than eight feet (8'), wider than eight feet (8') or longer than eighteen feet (18')~~)~~,

(iii) ~~(iii)~~ with commercial license plates or

(iv) ~~(iv)~~ with commercial signage.

Parking of all such vehicles and related equipment, other than on a temporary basis (such as delivery vehicles) or non-recurring basis shall be in garages or screened enclosures approved by the Covenants Committee or in areas designated by the Board of Directors, if any. The Board of Directors has no obligation to designate any such area or permit parking of such vehicles on the Single-Family Lots not containing nonresidential uses; provided, however, that parking of a reasonable number of commercial vehicles shall be permitted on the Property to serve commercial and multifamily needs.

No junk or derelict vehicle or other vehicle on which current registration plates and any required current county and state inspection permits are not displayed shall be kept upon any portion of the Property. Vehicle repairs and storage of vehicles are not permitted, except in accordance with the Rules and Regulations; provided, however, that washing of vehicles and

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noncommercial repair of vehicles is permitted on all Lots as provided in the Rules and Regulations; provided, further that such activities shall be permitted on Commercial Lots in connection with commercial activities on such Lot, subject to reasonable Rules and Regulations adopted by the Board of Directors. All motor vehicles, including without limitation trail bikes, electronic bikes, electronic scooters, motorcycles, dune buggies and snowmobiles, shall be driven only upon paved streets and parking lots. No motor vehicles shall be driven on Trails or unpaved portions of Common Area, except such vehicles authorized by the Board of Directors for Upkeep of the Common Area. This prohibition shall not apply to normal vehicular use of designated streets and lanes constructed on Common Area the Private Streets and Roadways.

~~8.2 (n)~~

~~8.2 (o)~~ 7.2 (o) Timesharing. No Single-Family Lot shall be subjected to or used for any timesharing, cooperative, licensing or other arrangement that would entail weekly, monthly or any other type of revolving or periodic occupancy by multiple owners, cooperators, licensees or timesharing participants.

~~8.2 (p)~~ 7.2 (p) Temporary Structures; Accessory Improvements. No structure of a temporary or permanent character, and no trailer, tent, shack, barn, pen, kennel, animal run, stable or other accessory building shall be erected, installed, used or maintained on any Lot ~~except in connection with construction or marketing activities by the Declarant or a Builder (as permitted by the Declarant)~~ without the prior written approval of the Covenants Committee. Furthermore, no modifications will be made to any Lot until plans and specifications therefor shall have been submitted to and approved by the Covenants Committee. No exterior air conditioning unit, solar panels, burglar bars or similar equipment attached to the exterior of a building may be installed or modified without the prior written approval of the Covenants Committee unless in compliance with established Design Guidelines. No basketball hoops, swings or other play equipment may be erected, placed or maintained on any Lot, except with the prior written approval of the Covenants Committee, unless in compliance with established Design Guidelines. No decorative items may be placed on the dwellings or in the yard of any Lot, without the approval of the Covenants Committee, unless in compliance with established Design Guidelines, which may include, but are not limited to, landscape lighting, water features or fountains, sculptures, and yard art.

7.2 (q) Animals. Keeping livestock, poultry or other animals on any Commercial Lot except as required for research and development activities or in connection with typical pet shop or pet care operations shall not be permitted, and in no event shall any stable, hutch, barn, coop or other housing or shelter for animals or for the storage of materials be placed or maintained upon the Lot, without the prior written approval of the Board of Directors.

The maintenance, keeping, boarding or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, is prohibited on any Single Family Lot or Multifamily Lot or upon the Common Area, except that the keeping of guide animals and a reasonable number of orderly, traditional domestic pets (e.g., dogs, cats or caged birds) is permitted, subject to the Rules and Regulations adopted by the Board of Directors; provided, however, that such pets are not kept or maintained for commercial purposes or for breeding on a Single Family Lot or Multifamily Lot.

~~8.2 (q)~~ Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon ten (10) days' written notice from the Board of

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Directors. Pets shall not be permitted upon the Common Area unless accompanied by someone who can control the pet and unless carried or leashed. The person walking the pet shall clean up pet droppings. Any Owner who keeps or maintains any pet upon any portion of the Property shall be deemed to have agreed to indemnify and hold harmless the Association, each Owner and the Declarant from and against any and all loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Property. The County and other appropriate governmental authorities shall have an easement over and across the Property to enforce local animal control laws and ordinances.

~~8.2 (r)~~ 7.2 (r) Hunting, Firearms and Fishing. No hunting, trapping or fishing of any kind or discharge of any firearm or other weapon shall be permitted without the prior written approval of the Board of Directors.

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~~8.2 (s)~~ 7.2 (s) Watercraft. No person may use any watercraft propelled by motor on any lake, stream or other body of water within the Property without the prior written approval of the Board of Directors.

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~~8.2 (t)~~ 7.2 (t) Operation of Recreational Vehicles. No person may operate a motorcycle, trail bike, electronic bike, motor bike, electronic scooter, or similar vehicle on a Trail; such vehicles may only be operated on the paved roadways intended for vehicular use.

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~~8.2 (u)~~ 7.2 (u) Open Fires. Open burning is not permitted on the Property, except that outdoor fireplaces, grills, and chimneys may be used if equipped with fire screens to prevent the discharge of embers or ashes.

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~~8.2 (v)~~ 7.2 (v) Lighting. No exterior lighting shall be directed outside the boundaries of a Lot without the prior written approval of the appropriate Covenants Committee.

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~~8.2 (w)~~ 7.2 (w) Mailboxes and Newspaper Tubes. Any and all mailboxes and newspaper tubes shall comply with the Design Guidelines or otherwise be approved by the appropriate Covenants Committee.

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~~8.2 (x)~~ 7.2 (x) Clothes Drying Equipment. No exterior clotheslines or other clothes drying apparatus shall be permitted on any Lot, without the prior written approval of the appropriate Covenants Committee.

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~~8.2 (y)~~ 7.2 (y) Pools. ~~-~~No swimming pool shall be erected or maintained on any Lot without the prior written approval of the appropriate Covenants Committee and unless screened from view and enclosed by a fence.

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~~8.2 (z)~~ 7.2 (z) Mixed Uses. ~~—~~Subject to reasonable rules and regulations promulgated by the Association, a Single Family Lot may be used for any non-residential purpose allowed by applicable zoning laws; provided, however, that (i) no equipment or other items related to the non-residential use of the Lot shall be stored, parked or otherwise kept on such Owner's Lot which are visible from neighboring property; (ii) such Owner has obtained approvals for such non-

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residential use as may be required by the County; and (iii) any signage is in compliance with the Design Guidelines or otherwise approved by the appropriate Covenants Committee.

7.2 (aa) Garages. No garage shall be converted to living space or altered or used for purposes (including storage) which would prevent the use of the garage for the parking of the intended number of vehicles for which it was constructed without the prior written approval of the appropriate Covenants Committee and the County, if applicable.

7.2 (bb) Construction Activities. This Section 7~~8~~.2 shall not be construed as forbidding any work involved in the construction or Upkeep of any portion of the Property so long as such work is undertaken and carried out: (i) with the minimum practical disturbance to Persons occupying other portions of the Property; (ii) in such a way as does not unreasonably interfere with the rights of any Person under other provisions of this Declaration; and (iii) in accordance with all applicable restrictions in the Rules and Regulations, the resolutions of the Board of Directors and the other provisions of this Declaration. The ~~Declarant, during the Declarant Control Period, and the~~ Board of Directors ~~thereafter~~ may approve temporary structures for construction purposes which may otherwise be in violation of the Association Documents or the Rules and Regulations.

~~8.2 (aa)~~ 7.2 (cc) General. In no event shall the Board of Directors or the appropriate Covenants Committee be under any obligation to grant permission or otherwise consent to any of the uses prohibited or restricted in this Section 7~~8~~.2.

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Section 7~~8~~.3. Rules and Regulations

~~8.3 (a)~~ 7.3 (a) Adoption, Distribution and Variances. The Board of Directors shall have the power to adopt, amend and repeal Rules and Regulations restricting and regulating the use and enjoyment of the Property or of any portion thereof, which may supplement, but may not be inconsistent with the provisions of the Association Documents. Copies of the Rules and Regulations shall be furnished by the Board of Directors to each Owner and to each occupant requesting the same. Changes to the Rules and Regulations shall be published prior to the time when the same shall become effective and copies thereof shall be provided to each Owner and to each occupant requesting the same. The Board of Directors may issue temporary or permanent exceptions or variances to any prohibitions expressed or implied by this Article, for good cause shown, in accordance with the procedures set forth in Subsection 8~~9~~.1(d).

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7.3 (b) Limitation. The Rules and Regulations shall not unreasonably interfere with the use or enjoyment of the Lots or Common Area or the reasonable conduct of business on the Commercial Lots.

7.3 (c) Sub-associations. The Board of Directors shall review and approve the rules and regulations proposed by any Sub-association; provided, however, that any rules and regulations submitted to the Board of Directors shall be deemed approved if not disapproved within sixty (60) days after the first meeting of the Board of Directors after such proposed rules and regulations are submitted to the extent they are not inconsistent with the Associati~~eait~~on's Document or Rules and Regulations. The Property shall be occupied and used in compliance with the Rules and Regulations, as well as the rules and regulations established by any Sub-association;

provided, however, that any rules and regulations adopted by such Sub-association which are inconsistent with the Association Documents or the Rules and Regulations of the Association, as may be determined by the Board of Directors, in its sole discretion shall be void.

~~**Section 8.4. Exclusion for the Declarant and Builders.** Notwithstanding any other provision of the Association Documents, neither the restrictions in this Article nor the Rules and Regulations of the Association shall apply to any otherwise lawful acts or omissions of the Declarant or of any Builder (i) approved by the Declarant during the Development Period, or (ii) consistent with standard customary practices within the construction industry.~~

Section ~~8~~7.~~4~~5. Leasing of Lots.

7.4 (a) Leasing. No Single-Family Lot or any portion thereof shall be used or occupied for transient or hotel purposes. No Single-Family Lot shall be leased for an initial period of less than six (6) months. No portion of any dwelling (other than the entire dwelling) shall be leased for any period; provided, however, that a reasonable number of roommates shall be permitted, as may be determined by the Board of Directors in its reasonable discretion. No Owner of a Single Family Lot shall lease a Lot other than pursuant to a written lease agreement:

(i) ~~(i)~~ requiring the lessee to comply with the Association Documents;

(ii) ~~(ii)~~ providing that failure to comply with the Association Documents constitutes a default under the lease; and

(iii) ~~(iii)~~ providing that the Board of Directors shall have the right and power to terminate the lease or to bring summary proceedings to evict the tenant in the name of the lessor thereunder after forty-five (45) days prior written notice to the Owner, in the event of a default by the tenant in the performance of the lease.

~~8.5 (a)~~ The Board of Directors may suggest or require a standard form lease for use by Owners of Single-Family Lots. Upon request, each Owner of a Single-Family Lot shall, promptly following the execution of any lease of a Lot, forward a conformed copy thereof to the Board of Directors. The Association may also require (i) the names and contact information of and vehicle information for the tenants and authorized occupants under the lease; (ii) the name and contact information of any authorized agent of the Owner; and (iii) the tenant's acknowledgment of and consent to the Association's Rules and Regulations. The foregoing provisions of this subsection shall not apply to Multifamily Lots, Commercial Lots, Civic Lots or Lots owned by the Association~~, by the Declarant,~~ or a Mortgagee in possession of a Lot as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

Section ~~8~~7.~~6~~5. Resubdivision and Rezoning.

~~8.6 (a)~~ 7.5 (a) Resubdivision. A Lot may be subdivided or altered so as to relocate the boundaries between such Lot and any adjoining Lot, only with the prior written approval of the ~~Declarant, during the Development Period, or the~~ Board of Directors ~~thereafter~~, and with any

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required approvals by the appropriate governmental authorities. No portion of any such Lot, nor any easement or other interest therein, except easements for utilities, storm water drainage and management, street dedications and other easements or dedications to any utility company or public authority, shall be conveyed or transferred by an Owner without the prior written approval of the ~~Declarant during the Development Period~~Association. This Section is not intended to require the approval of the ~~Declarant or the~~ Board of Directors to leases, deeds of correction, deeds to resolve boundary line disputes or similar corrective instruments, or deeds granting any easement, right-of-way or license to any governmental or public entity, utility company, or the Association ~~or the Declarant~~ for any purpose. This Section is not intended to apply to the relocation of boundary lines or resubdivision of a condominium or cooperative unit which does not increase the total number of units within such condominium or cooperative association.

~~8.6 (b)~~ 7.5 (b) Rezonings and Proffer Amendments. No Owner shall seek to rezone or amend the proffers affecting such Owner's Lot without the prior written approval of the ~~Declarant, during the Development Period, or thereafter without the prior written approval of the~~ Board of Directors. ~~The Declarant and/or the Landowners reserve the right to seek to rezone or amend the zoning or proffers applicable to any portion of the Property or the Additional Land during the Development Period without the joinder or approval of the Association or any Owner (except the Owner of the real estate described in the application and directly affected by such application or amendment) or Mortgagee. Each Owner acknowledges on behalf of such Owner and such Owner's successors and assigns, that the Declarant and/or the Landowners may from time to time rezone or amend the Proffers or the Development Plan.~~ To the extent the approval and consent of any other Owner is required under State or local law to apply for or obtain any rezoning or proffer condition amendment or to make any subdivision submission, then each Owner appoints the Board of Directors of the Association as such Owner's attorney-in-fact to sign such application on behalf of the Owner or in the alternative, upon receipt of written request, each Owner agrees to sign the application, submission or other documents required for such action; provided, however, that such joinder shall be without liability or cost to such Owner unless such liability or cast is expressly accepted by such Owner; and provided, further, that this covenant does not apply to any application or amendment that would materially and adversely affect an Owner's ability to use such Owner's Lot for its intended purposes or significantly increases such Owner's development costs.

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ARTICLE ~~8~~9

ARCHITECTURAL REVIEW

Section ~~8~~9.1. Covenants Committee Purposes and Powers.

~~9.1 (a)~~ 8.1 (a) Purpose. ~~The~~ ~~Declarant or the~~ Board of Directors shall establish various Covenants Committees as provided in Section ~~8~~9.2, in order to assure that the Property shall always be maintained in a manner: (i) providing for visual harmony and soundness of repair; (ii) avoiding activities deleterious to the aesthetic or property values of the Property; and (iii) promoting the general health, safety and welfare of the Owners, such Owners' tenants and such Owners' (or tenants') households, or companies, guests, employees, customers, agents and

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invitees. If ~~neither the Declarant nor~~ the Board of Directors does not appoint~~s~~ a Covenants Committee, then the Board of Directors shall perform the duties of the Covenants Committee.

~~9.1 (b)~~ 8.1 (b) Powers. The Covenants Committees shall regulate the external design, signage, appearance, use and Upkeep of the Property (including establishing minimum floor area specifications and building set backs)~~; provided, however, that the Covenants Committees shall not have the power to regulate the activities of the Declarant on the Common Area or any Lot owned by the Declarant or construction on any Lot which has been approved by the Declarant; and provided further that the Covenants Committees shall not have the power to review initial construction on the Property, if such construction is reviewed or approved by the Declarant~~. In addition, if the Board of Directors so determines, the covenants committee, board of directors or similar body of any Sub-association may review applications made by Owners of Lots subject to the jurisdiction of the Sub-association, on behalf of the appropriate Covenants Committee.

8.1 (c) Owner Submissions. Each Owner required to seek any approval from a Covenants Committee must submit a proposed construction schedule and at least two (2) sets of plans and specifications of the proposed construction, erection, installation, alteration, enlargement, demolition or removal, which plans and specifications must include (unless waived by the Covenants Committee):

(i) ~~(i)~~ a site plan showing the size, location and configuration of all Improvements, including driveways and landscaped areas, and all setback lines, buffer areas and other features required under applicable law,

(ii) ~~(ii) as to improvements initially constructed on a Lot,~~ landscaping plans showing the trees to be removed and to be retained and shrubs, plants and ground cover to be installed, and

(iii) ~~(iii)~~ architectural plans of the Improvements showing exterior elevations, construction materials, exterior colors, driveway material and such other information as the Covenants Committee in its discretion shall require (collectively, the ""Plans""). A Covenants Committee shall not be required to accept or consider any plans for review unless and until the Plans contain all of the foregoing items.

~~9.1 (c)~~ A Covenants Committee may from time to time modify or amend the requirements regarding the form and content of plans and specifications to be submitted for approval. A Covenants Committee shall have the power to impose reasonable application fees as well as the costs of reports, analyses or consultations required in connection with improvements or changes proposed by an Owner. Such fees shall be assessed against the Lot owned by the Owner making the application; provided, however, that the Committee shall inform any Owner making a submission of the potential fees before incurring or assessing such fees and the Owner shall have the option to withdraw the application. A Covenants Committee shall have the right but not the obligation to inspect construction periodically. Any deviation from the approved drawings and specifications which materially changes the exterior appearance, quality or location of the

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improvement is a violation of the Association Documents. This section shall in no way affect any requirement for inspection by any governmental entity.

~~9.1 (d)~~ 8.1 (d) Power to Impose Charges. A Covenants Committee shall have the power pursuant to Subsection 1~~2~~.1(h) (upon petition of any Owner or upon its own motion) to impose reasonable charges in accordance with Virginia Code § 55.1-1819 upon, and issue a cease and desist request to, an Owner, such Owner's tenant and such Owner's (or tenant's) household or company, or guests, customers, employees, agents, and invitees whose actions are inconsistent with the provisions of the Association Documents or the Rules and Regulations.

8.1 (e) Interpretations, Proposed Changes. Subject to the review of the Board of Directors, a Covenants Committee shall from time to time provide interpretations of the Association Documents pursuant to the intents, provisions and qualifications thereof, when requested to do so by an Owner and the Board of Directors. The Committee may publish and record such interpretations in order to establish precedents for application of the Association Documents or the Design Guidelines or other matters relative to architectural control and protection of the aesthetic or property values of the Property. A Covenants Committee may propose changes or additions to the Design Guidelines for approval by the Board of Directors~~, subject to the limitations in Section 9.3~~. Such Design Guidelines approved by the Board of Directors are hereby incorporated by this reference and shall be enforceable as if set forth herein in full.

The appropriate Covenants Committee shall also review the architectural guidelines proposed by the board of directors, covenants committee or similar committee, of any Sub-association and shall determine whether such architectural guidelines are in keeping with the overall architectural and aesthetic character of the Property. Any such guidelines which are submitted to the appropriate Covenants Committee shall be deemed approved if not disapproved within sixty (60) days to the extent they are not inconsistent with the Association Documents and Design Guidelines. The guidelines or rules established by any Sub-association are subordinate to the Association Documents and the Design Guidelines and are void to the extent inconsistent with the Association Documents or Design Guidelines, as determined by the Board of Directors.

~~9.1 (e)~~

~~9.1 (f)~~ 8.1 (f) Actions by Covenants Committee. A Majority Vote of a Covenants Committee shall be required in order to take any action. The Covenants Committee shall keep written records of all its actions. Any action, ruling or decision of the Modifications and Rules Enforcement Committee ~~(but not the Initial Construction Committee)~~ may be appealed to the Board of Directors by any party deemed by the Board of Directors to have standing as an aggrieved party and any decision by the Commercial Review Committee may be appealed to the Board of Directors by the Commercial Lot Owner or the Multifamily Lot Owner whose Lot is directly affected by the action, ruling or decision. If properly appealed, the Board of Directors may modify or reverse any such action, ruling or decision of the applicable Covenants Committee. ~~The Covenants Committee and the Board of Directors shall have no authority to regulate any development or construction by the Declarant or any development or construction approved by the Declarant.~~

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~~9.1 (g)~~ 8.1 (g) Authority. A Covenants Committee shall have such additional duties, powers and authority as the Board of Directors may from time to time provide by resolution. The Board of Directors may relieve a Covenants Committee ~~(except the Initial Construction Committee or the Commercial Review Committee)~~ of any of its duties, powers and authority either generally or on a case-by-case basis. The Covenants Committee shall carry out its duties and exercise its powers and authority in accordance with subsections 1~~2~~1.1(h) and (i) and in the manner provided by the Rules and Regulations adopted by the Board of Directors or by resolution of the Board of Directors. ~~Notwithstanding the foregoing, neither the Covenants Committee nor the Board of Directors shall have authority to regulate new construction or alterations of existing improvements by the Declarant or by others as approved by the Declarant or approved by the Initial Construction Committee during the Development Period.~~

~~9.1 (h)~~ 8.1 (h) Time for Response; Variances or Exceptions. A Covenants Committee shall act on all matters properly before it within forty-five (45) days after its receipt of a complete application in the form prescribed by the Covenants Committee; failure to do so within the stipulated time shall constitute an automatic referral to the Board of Directors at the written request of the applicant. Except when a request is being handled by the Covenants Committee, the Board of Directors shall be obligated to answer any written request for approval of a proposed structural addition, alteration or improvement within fifteen (15) days after the first Board of Directors meeting held following such referral to the Board (but not more than sixty (60) days after the date the application was submitted), and failure to do so within the stipulated time shall constitute a consent by the Board of Directors to the proposed structural addition, alteration or improvement to the extent it is not inconsistent with the Association Documents and Design Guidelines; provided, however, that neither the Board of Directors nor the Covenants Committee has the right or power, either by action or failure to act, to waive enforcement or grant variances or exceptions from the written Design Guidelines without a specific finding that enforcement of such guidelines would impose an unfair burden on such Owner and stating the variance or exception and the reasons therefor in a written instrument which shall be part of the records of the Association. Upon such written approval of any specific variance or exception from the requirements of the Design Guidelines, all development conforming to such variance or exception shall be deemed to comply.

~~9.1 (i)~~ 8.1 (i) Standards for Enforcement. In performing its duties to accomplish its purpose as set forth in Section ~~8~~9.1(a), the Covenants Committee shall attempt to foster harmonious relations between Owners, occupants and third parties; encourage direct communication between parties in disagreement; balance the need for enforcement against the economic, social and community effects of such enforcement in each individual case; evaluate the materiality of any claimed breach; consider community standards; and, treat all Owners and occupants fairly and equally. At the request of any party, the decision of the Covenants Committee on any matter shall contain a finding as to whether the decision preserves or protects property values and/or sustains or enhances the quality of life in the community.

~~9.1 (j)~~ 8.1 (j) Determination of Violations. A Covenants Committee shall establish a policy for the consideration of violations of the Association Documents, Rules and Regulations, Design Guidelines and other provisions which the Covenants Committee is empowered to enforce. Such policy shall provide whether the Covenants Committee will proactively seek out certain

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violations or reactively respond to complaints filed by the Owners and occupants. The Covenants Committee shall direct the Managing Agent as to the specific extent of management's enforcement duties (in accordance with the management agreement).

~~9.1 (k)~~ 8.1 (k) Conduct of Business. Neither a Covenants Committee nor the Board of Directors shall exercise its powers and authority so as to interfere with the reasonable conduct of business on the Property ~~or the development of the Property by the Declarant during the Development Period or thereafter in accordance with the Development Plan~~. Reasonable signs, modifications, alterations and changes of use which are consistent with Design Guidelines and needed for the proper conduct of business shall be permitted.

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~~9.1 (l)~~ 8.1 (l) Specific Exclusions. The applicable Supplementary Declaration may exclude certain types of improvements or alterations from Covenants Committee review to the extent such improvements or alterations are not visible from neighboring property or if such improvements are located on a Multifamily Lot or a Commercial Lot.

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Section ~~8~~9.2. Appointment of Members to Covenants Committees. The ~~Declarant, the~~ Board of Directors~~,~~ or the Owners of Single-Family Lots, Multifamily Lots, and Commercial Lots, as appropriate, may appoint or elect members to various specialized Covenants Committees. Such Committees may include ~~an Initial Construction Committee,~~ a Modifications and Rules Enforcement Committee and a Commercial Review Committee. Each of the Covenants Committee may in its discretion establish additional subcommittees to carry out its functions. Wherever in the Association Documents reference is made to the Covenants Committee, such reference shall mean the appropriate Committee having jurisdiction over the Lot in question.

~~9.2 (a)~~ 8.2 (a) ~~Initial Construction Committee. The Declarant may appoint individuals to the Initial Construction Committee during the Development Period, such individuals to serve for terms designated by the Declarant. If the Declarant does not appoint an Initial Construction Committee, then the Declarant may perform the functions of the Initial Construction Committee. The Initial Construction Committee shall adopt Design Guidelines for the Property and review and approve or disapprove the plans for the initial construction of any structure to be located on the Property, including without limitation the site development plan, architectural design, architectural materials, landscaping plan, non-structural improvements and general appearance, in order to ensure the quality and compatibility of style of all the improvements to be located on the Property.~~

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~~9.2 (b)~~ Modifications and Rules Enforcement Committee. The Board of Directors may appoint the members of the Modifications and Rules Enforcement Committee. The Modifications and Rules Enforcement Committee shall consist of at least three (3) persons. The appointees to the Modifications and Rules Enforcement Committee shall serve for terms of one (1) to three (3) years as determined by the Board of Directors. In addition to reviewing alternations and modifications to improvements on Single Family Lots~~,~~ and Civic Lots, the Modifications and Rules Enforcement Committee shall review possible violations of the Rules and Regulations, recommend appropriate enforcement action and act as the judicial arm of the Association as set forth in Subsections 1~~2~~1.1(h) and (1) with respect to Single Family Lots and Civic Lots. If the Board of Directors fails

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to make such appointments, the Board of Directors shall serve as the Modifications and Rules Enforcement Committee.

~~9.2 (c)~~ 8.2 (b) Commercial Review Committee. ~~The Declarant may appoint individuals to the Commercial Review Committee during the Development Period, such individuals to serve for terms designated by the Declarant.~~ The Commercial Review Committee shall consist of three (3) persons. Two (2) members of the Commercial Review Committee shall be Owners of or representatives of Owners of Commercial Lots and one (1) member shall be the Owner or representative of an Owner of a Multifamily Lot. If there is no Multifamily Owner within the Property, all three (3) members of the Commercial Review Committee may be Owners of or representatives of Commercial Lots. The Owners of the Commercial Lots or Multifamily Lots serving on the Commercial Review Committee shall be elected by the Owners of Commercial Lots and Multifamily Lots based on one (1) vote per Lot. If all the Commercial Lots located within the Property are subject to a single Sub-association, the two (2) Owners of Commercial Lots serving on the Commercial Review Committee shall be appointed by the board of directors or similar executive body of such Sub-association. If the Owners of Commercial Lots and Multifamily Lots fail to elect members to the Commercial Review Committee, then the Board of Directors shall appoint the members thereof. Members appointed by the Board of Directors shall serve until the Commercial Owners and Multifamily Owners elect replacement members. The Commercial Review Committee shall review and approve or disapprove the plans for any additions, alterations or modifications to the exterior of existing improvements located on Commercial Lots and the Multifamily Lots that are visible from the neighboring property. The Commercial Review Committee shall also review possible violations of the Rules and Regulations, recommend appropriate enforcement action, and act as the judicial arm of the Association as set forth in Subsections 1~~2~~1.1(h) and (i) with respect to Commercial Lots. Notwithstanding any other provision of the Association Documents, decisions of the Commercial Review Committee are not appealable to the Board of Directors or subject to review by the Board of Directors, unless appealed by the Owner of the Commercial Lot or Multifamily Lot that is directly affected by an adverse decision.

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~~**Section 9.3. Architectural Review During the Development Period.** During the Development. Period, all architectural review and approval of the initial construction shall be performed by the Declarant and all architectural review and approval of changes shall be performed by the applicable Covenants Committee.~~

~~9.3 (a) Initial Construction. The Declarant shall have the right to adopt any and all initial Design Guidelines for the Property during the Development Period and review and approve or disapprove the plans for the initial construction of any structure to be located on the Property, including without limitation the site development plan, architectural design, architectural materials, landscaping plans, minimum square footage, non-structural improvements and general appearance, in order to ensure the quality and compatibility of style of all the improvements to be located on the Property. Such Design Guidelines for initial construction, as the same may be adopted or amended by the Declarant during the Development Period from time to time, are hereby incorporated herein by this reference and shall be enforceable as if set forth herein in full. Decisions by the Declarant regarding the~~

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~~initial construction are not appealable to the Board of Directors. The Declarant may exercise its right to review and approve or disapprove all initial construction on the Property directly or through the Initial Construction Committee appointed pursuant to Subsection 9.2(a), The Initial Construction Committee may establish its own applications and procedures and may charge a fee for its review of applications or submissions by Owners. Decisions of the Initial Construction Committee are not appealable to the Board of Directors. The Declarant or the Initial Construction Committee has the right or power to waive enforcement or grant variances or exceptions from written Design Guidelines in a written instrument stating the variance which shall be part of the records of the Association. Upon such written approval of any specific variance or exception from the requirements of the Design Guidelines, all development conforming to such variance or exception shall be deemed to comply therewith. All costs and expenses of the Initial Construction Committee not covered by application fees shall be deemed a Common Expense, After the Development Period, the Initial Construction Committee shall cease to exist. If initial construction on the Property occurs after the Development Period and after the Initial Construction Committee ceases to exist, then such construction will be reviewed by the Modifications and Rules Enforcement Committee or Commercial Review Committee, as appropriate.~~

~~9.3 (b) Modifications and Rules Enforcement. Review of the plans for any additions, alterations or modifications to the exterior of existing improvements located on the Property and possible violations of the Association Documents and Rules and Regulations by an Owner, shall be conducted by either the Modifications and Rules Enforcement Committee or the Commercial Review Committee, as applicable, in accordance with Sections 9.1. and 9.2.~~

Section ~~8~~9.43. Compensation of the Covenants Committee. No ~~One or more~~ members of a Covenants Committee ~~other than an Owner or an occupant of the Property~~ may be compensated by the Association for their service on the Committee ~~(including designees of the Declarant) and for their technical or professional expertise as may be determined by the Board of Directors~~.

Section ~~8~~9.5~~4~~. Additions, Alterations and Improvements Requiring Approval.

~~9.5 (a)~~ 8.4 (a) Approval Required.

(1) No Person shall make any addition, alteration, improvement or change to~~change of grade in or to~~ any Lot (other than for normal Upkeep or natural landscaping and not including areas within a building or dwelling visible from the exterior only because of the transparency of glass doors, walls or windows), including change of a Lot's grade, without the prior written consent of the appropriate Covenants Committee. No Person shall make any addition) alteration or improvement to any common area owned by a Sub-association or the common elements of any condominium or cooperative association located within the Property (other than for normal Upkeep or natural landscaping and not including areas within a building or dwelling visible from the exterior only because of the transparency of glass doors, walls or windows) without the prior written consent of the appropriate Covenants Committee.

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~~(1)~~ No Person shall paint, affix a sign not permitted by the Rules and Regulations to or alter the exterior of any improvement, including the doors and windows if visible from neighboring property without the prior written consent of the appropriate Covenants Committee. Approval by the ~~Declarant, the~~ Board of Directors or a Covenants Committee shall not relieve an Owner or Sub-association from any obligation to obtain required governmental approvals and permits. Upon request, the Owner shall deliver all approvals and permits required by law to the ~~Declarant, the~~ Covenants Committee or Board of Directors, as appropriate, prior to the commencement of the construction requiring such approval or permit. If any application to any governmental authority for a permit to make any such structural addition, alteration or improvement to any Lot or improvement located on any Lot requires signature by the Association, and provided consent has been given by the ~~Declarant, the~~ Board of Directors or the appropriate Covenants Committee, then the application shall be signed on behalf of the Association by an Officer only, without incurring any liability on the part of the Officer, the Board of Directors, the Association, the Covenants Committee members, ~~the Declarant~~ or any of them to any contractor, subcontractor or materialmen on account of such addition, alteration or improvement, or to any Person having a claim for personal injury or property damage arising therefrom. Any addition, alteration or improvement upon any Lot in violation of the Association Documents shall be removed or altered to conform to the Association Documents (including the Design Guidelines) within thirty (30) days after notice from the Board of Directors or the appropriate Covenants Committee of the violation.

(2) With respect to Lots which are also subject to the jurisdiction of a Sub-association, the Board of Directors may determine to have the covenants committee, board of directors or similar body of such Sub-association review applications for architectural review on behalf of the Covenants Committee. Owners of such Lots must comply with the Design Guidelines and the Rules and Regulations for the Property, as well as any guidelines or rules and regulations established by the Sub-association with jurisdiction over such Lot.

~~(3) During the Development Period, the provisions of this Section shall not apply to Lots owned by the Declarant or to new construction or alteration of existing improvements on any Lot if such construction or alteration has been approved by the Declarant. The Declarant or an Owner (if approved by the Declarant) shall have the right to construct improvements, make alterations or subdivisions without the approval of the Board of Directors or a Covenants Committee and an authorized Officer shall sign any application required therefor.~~

~~(4)~~(3) The provisions of this Section shall not apply to a holder of a Mortgage (in possession of a Lot as a result of foreclosure, judicial sale or proceeding in lieu of foreclosure) affixing a sign or taking any other actions that may be necessary to sell or lease all or any portion of the Lot, if such actions are in accordance with applicable zoning and not detrimental to the value of the Property.

~~9.5 (b)~~ 8.4 (b) Commencement/Completion of Construction. Any Person obtaining approval of the appropriate Covenants Committee shall commence construction or alteration in accordance with plans and specifications approved within six (6) months after the date of approval and shall substantially complete any construction or alteration within eighteen (18) months after the date of approval, or within such other period as specified in the approval. Notwithstanding the

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foregoing, the approval may provide for a different period during which to commence or complete construction. If any such Person does not commence work within six (6) months after approval, or such other time period determined by the Committee, then approval shall lapse.

~~9.5 (c)~~ 8.4 (c) Compliance with Plans. Any Person obtaining approval of the appropriate Covenants Committee shall not deviate materially from the plans and specifications approved without the prior written consent of the Committee. Such Person shall notify the Committee when the alterations or improvements are complete. Approval of any particular plans and specifications or design does not waive the right of the Committee to disapprove such plans and specifications, or any elements or features thereof, if such plans and specifications are subsequently submitted for use in any other instance or by any other Person.

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~~9.5 (d)~~ 8.4 (d) Certificate of Compliance. Upon the completion of any construction or alterations in accordance with plans and specifications approved in accordance with this Article, the Covenants Committee or the Board of Directors shall, at the request of the Owner thereof, issue a certificate of compliance which shall be prima facie evidence that such construction or alteration referenced in such certificate has been approved in accordance with this Article and constructed or installed in full compliance with the provisions of this Article and with such other provisions and requirements of the Association Documents as may be applicable. The certificate shall not be used and may not be relied upon for any other purpose, and it shall not constitute a representation either as to the accuracy or sufficiency of the plans and specifications reviewed by the Committee or any warranty of any kind or nature whatsoever relating to the quality or soundness of the construction, alterations or improvements or as a substitute for governmental approvals or permits. The Committee may impose a reasonable charge to cover the costs of inspection and preparation of such a certificate.

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~~9.5 (e) Improvements during Development Period. If construction is reviewed by the Declarant or the Initial Construction Committee pursuant to Sections 9.2 and 9.3, all references to the Covenants Committee shall be deemed to mean the Declarant or the Initial Construction Committee, and such construction shall be subject only to such limitations as may be determined by the Declarant.~~

ARTICLE 9

INSURANCE

Section 9.1. General Provisions.

~~10.1 (a)~~ 9.1 (a) Authority, Liability, and Notice. The Board of Directors shall have the power and responsibility on behalf of the Association to: (i) purchase insurance policies relating to the Common Area, (ii) adjust all claims arising under such policies, and (iii) execute and deliver releases upon payment of claims. The cost of all insurance policies purchased by the Board of Directors relating to the Common Area shall be a Common Expense or Limited Common Expense, as appropriate. The Board of Directors and, ~~the~~ the Managing Agent ~~and the Declarant~~ shall not be liable for failure to obtain any coverages required by this Article or for any loss or damage resulting from such failure: (i) if such failure is due to the unavailability of such coverages from reputable insurance companies; (ii) if such coverages are so available only at

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demonstrably unreasonable cost; or (iii) if the Association's insurance professionals advise that the coverages required by paragraph (2) of Subsection 9~~10~~.2(b) are unnecessary. Exclusive authority to negotiate losses under policies purchased by or on behalf of the Association shall be vested in the Board of Directors or with its authorized representative. The Board of Directors shall endeavor to promptly notify the Owners, and Mortgagees of material adverse modifications, lapses or termination of, insurance coverages obtained on behalf of the Association.

~~10.1 (b)~~ 9.1 (b) Policy Requirements.

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(1) All policies of insurance shall be written by reputable companies licensed or qualified to do business in Virginia.

(2) The deductible or retained limit (if any) on any insurance policy purchased by the Board of Directors shall be a Common Expense (or a Limited Common Expense or a Recreational Facility Expense, as appropriate); provided, however, that the Association may, pursuant to Subsections 5.2(d) and 11.1(a), assess any deductible amount necessitated by the action, failure to act, misuse or neglect of an Owner, or such Owner's tenant or such Owner's (or tenant's) household or company, guests, customers, employees, agents or invitees against the Lot owned by such Owner.

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~~(3) The Declarant, so long as the Declarant shall own any Lot, shall be a named insured, additional insured, or otherwise protected by all such policies as an Owner.~~

~~(4)~~(3) Each such policy shall provide that: (1) ~~; (1) t~~The insurer waives any right to claim by way of subrogation against the Association, the Board of Directors, the Managing Agent, any Owner and their respective households or companies, or guests, customers, employees, tenants, agents and invitees; (ii) Such policy shall not be canceled, invalidated or suspended due to the conduct of any Owner, or such Owner's tenant or such Owner's (or tenant's) household or company, or guests, customers, employees, agents and invitees, or of any member, Officer or employee of the Board of Directors or the Managing Agent without a prior demand in writing that the Board of Directors or the Managing Agent cure the conduct and neither shall have so cured such conduct within thirty (30) days after such demand; and (iii) such policy may not be canceled, suspended or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to ~~the Declarant (during the Declarant Control Period) and~~ the Board of Directors and the Managing Agent.

Section 9~~10~~.2. Physical Damage Insurance.

~~10.2 (a)~~ 9.2 (a) Coverage. The Board of Directors shall obtain and maintain a policy or policies of property insurance written on a Special Covered Causes of Loss Form including without limitation fire damage, vandalism, malicious mischief, sprinkler leakage (if applicable), cost of demolition, debris removal, and water damage coverage, insuring any improvements located on the Common Area (including without limitation any floor coverings, fixtures and appliances), together with all air conditioning and heating equipment and other service machinery contained therein and covering the interests of the Association, in an amount equal to one hundred percent (100%) of the then current full insurable replacement cost of any

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improvements located on the Common Area (exclusive of the real estate, excavations, foundations and other items normally excluded from such coverage), without deduction for depreciation (such amount to be redetermined periodically by the Board of Directors with the assistance of the insurance company affording such coverage). The Board of Directors shall also obtain and maintain appropriate coverage on all personal property and real estate other than the Common Area owned by the Association.

9.2 (b) Waivers and Endorsements. Each such policy shall also provide:

(1) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made not to do so;

(2) The following endorsements (or equivalent); (i) "no control" (to the effect that coverage shall not be prejudiced by any act or neglect of any Owner or occupant or their agents when such act or neglect is not within the control of the insured or the Owners collectively, nor by any failure of the insured or any Owners collectively, to comply with any warranty or condition with regard to any portion of the Property over which the insured or the Owners collectively have no control; (ii) "cost of demolition"; (iii) "contingent liability from operation of building laws or codes"; (iv) "increased cost of construction" or "inflation guard"; (v) ""replacement cost"" or ""guaranteed replacement cost";

(3) That any "no other insurance" clause expressly exclude individual Owners' policies from its operation so that the property insurance policy purchased by the Board of Directors shall be deemed primary coverage and any individual Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Owners or Mortgagees, unless otherwise required by law;

(4) Such deductibles and self-insured retentions as to loss as the Board of Directors in its sole discretion deems prudent and economical; and

(5) To the extent a policy covers a dwelling located on any Lot, the standard mortgagee clause.

9.2 (c) Certificates. Certificates of property insurance coverage signed by an agent of the insurer, all renewals thereof, and any sub-policies or certificates and endorsements issued thereunder, together with proof of payment of premiums, shall be delivered by the insurer to any Mortgagee requesting the same, at least ten (10) days prior to expiration of the then current policy.

9.2 (d) Notice to Mortgagees. All Mortgagees shall be notified promptly of any event giving rise to a claim under such policy arising from damage to improvements located on the Common Area in excess of ten percent (10%) of the annual budget for Common Expenses to the extent the Mortgagees have notified the Association of their desire to receive such notice in accordance with Article 12, Section 12.2. The Mortgagee of any Lot insured by the Association shall be notified promptly of any event giving rise to a claim under such policy arising from damage to improvements located on such Lot.

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Section 9~~10~~.3. Liability Insurance. The Board of Directors shall obtain and maintain commercial general liability insurance (including without limitation libel, slander, false arrest and invasion of privacy coverage) and property damage liability insurance in such limits as the Board of Directors may from time to time determine, insuring the Association, each member of the Board of Directors, the Managing Agent, the Owners and the employees and agents of the Association against any liability to the public or to any Owner or such Owner's tenants and such Owner's (or tenant's) household or company, or guests, customers, employees, agents and invitees arising out of, or incident to the ownership or care, custody, control and use of the Common Area or any facilities located in the public right of way or legal liability arising out of employment contracts of the Association. Such insurance shall be issued on a comprehensive liability basis and shall contain: (i) a cross-liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to an action against another named insured; (ii) hired and non-owned vehicle coverage; (iii) host liquor liability coverage with respect to events sponsored by the Association; (iv) deletion of the normal products exclusion with respect to events sponsored by the Association; and (v) a ""severability of interest"" endorsement which shall preclude the insurer from denying liability coverage to an Owner because of negligent acts of the Association or of another Owner. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than one million dollars covering all claims for bodily injury or property damage arising out of one occurrence. Reasonable amounts of ""umbrella"" liability insurance in excess of the primary limits or in such higher amounts as the Board of Directors may deem reasonable and appropriate shall also be obtained in an amount not less than two million dollars.

Section 9~~10~~.4. Other Insurance. The Board of Directors shall also obtain and maintain:

~~10.4 (a)~~ 9.4 (a) —Fidelity. Adequate fidelity coverage to protect against dishonest acts on the part of members of the Board of Directors, Officers, trustees, employees and agents of the Association and all others who handle or are responsible for handling funds of the Association, including the Managing Agent and volunteers. If the Association has delegated some or all of the responsibility for handling funds to the Managing Agent, such Managing Agent also shall be required to be covered and insured by its own fidelity insurance. Such fidelity insurance (except for fidelity insurance obtained by the Managing Agent for its own personnel) shall, or as otherwise required by Virginia Code § 55.1-1827: (i) name the Association as the insured; (ii) be written in an amount not less than one-fourth the total annual assessment for Common Expenses or the amount required by the Mortgagees, FNMA or FHLMC, - whichever is greatest; and (iii) contain waivers of any defense based upon the exclusion of Persons who serve without compensation from any definition of ""employee"" or similar expression;

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~~10.4 (b)~~ 9.4 (b) —Flood Insurance. If required by a majority of the Mortgagees or governmental regulations, flood insurance in accordance with the then applicable regulations for such coverage;

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~~10.4 (c)~~ 9.4 (c) —Workers' Compensation. Workers' compensation and employer's liability insurance if and to the extent necessary to meet the requirements of law (including a voluntary employees endorsement and an "all states" endorsement);

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~~10.4 (d)~~ 9.4 (d) –Directors and Officers Liability Insurance. Directors and officers liability insurance in an amount not less than one million dollars; and

~~10.4 (e)~~ 9.4 (e) –Other. Such other insurance: (i) as the Board of Directors may determine; or (ii) ~~as may be required with respect to the Additional Land by any amendment to this Declaration adding Additional Land or (iii)~~ as may be requested from time to time by a Majority Vote of the Owners.

Section 9~~10~~.5. Insurance on Lots.

~~10.5 (a)~~ 9.5 (a) –Optional Insurance. Each Owner or Sub-association shall ~~have the right to~~ obtain insurance for such Owner's or Sub-association's benefit, at such Owner's or Sub-association's sole cost and expense, covering the improvements located on such Owner's Lot or the Lot for which Upkeep is performed by such Sub-association and such Owner's or Sub-association's personal liability. No Owner shall acquire or maintain insurance coverage on the Common Area insured by the Association so as to: (i) decrease the amount which the Board of Directors may realize under any insurance policy maintained by the Association; or (ii) cause any insurance coverage maintained by the Association to be brought into contribution with insurance coverage obtained by such Person; or (iii) in violation of any condominium instruments or declaration of covenants encumbering such Owner's Lot. No Person shall obtain separate casualty insurance policies on the Common Area improvements.

~~10.5 (b)~~ 9.5 (b) –Required Coverage. Due to the shared walls between the improvements located on some of the Lots, each Owner of a Lot containing an attached structure shall obtain commercial general liability insurance in a minimum amount of one million dollars and property insurance on a Special Covered Causes of Loss form in an amount equal to one hundred percent (100%) of the then current insurable replacement cost of any improvements located on such Owner's Lot. Each Owner of a Commercial Lot or a Single-Family Lot containing a non-residential use shall obtain liability insurance and property insurance in at least such amounts and, in addition, shall obtain insurance against such other risks as are usually covered by similar enterprises. If the Board of Directors so requests, the Owner of such a Lot and shall provide a certificate of insurance to the Board of Directors fifteen (15) days prior to the expiration of such insurance. Any policy obtained shall provide that it may not be canceled except upon ten (10) days' written notice to the Association. If an Owner fails to obtain the insurance coverage required by this Article, the Board of Directors may purchase such insurance coverage on such Owner's behalf and assess the Lot owned by such Owner for the cost thereof pursuant to Subsections 5~~6~~.2(d) and 1~~1~~2.1(a). The ~~Declarant, the~~ Association and the Board of Directors shall not be held liable for the failure of any Owner to purchase insurance.

9.5 (c) –Other Coverage. Owners may be required to obtain certain other, further or additional insurance coverages with respect to Additional Land in the Supplementary Declaration adding such Additional Land.

ARTICLE 1~~0~~1

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RECONSTRUCTION AND REPAIR

Section 10~~1~~.1. When Reconstruction or Repair Required.

~~11.1 (a)~~ 10.1 (a) Common Area. Except as otherwise provided in Section 10~~1~~.2, if all or any part of any improvement located on the Common Area is damaged or destroyed by fire or other casualty, the Board of Directors shall arrange for and supervise the prompt repair and restoration thereof. The Association shall not use the proceeds of casualty insurance received as a result of damage or destruction of improvements located on~~t~~ the Common Area for purposes other than the repair, replacement or reconstruction of such improvements except in accordance with Sections 10~~1~~.2 and 14~~5~~.43.

10.1 (b) Lots. If a building or other major improvement located upon a Lot is damaged or destroyed by fire or other casualty, the Owner thereof, or the Sub-association responsible for the Upkeep of such building or improvement, shall restore the site either~~:~~ (i) by repairing or reconstructing such building or other major improvement; or (ii) by clearing away the debris and restoring the site to an acceptable condition compatible with the remainder of the Property, as may be determined by the Board of Directors. Unless the applicable Covenants Committee permits a longer time period, such work must be: (i) in the case of a detached structure, commenced within six (6) months after the casualty and substantially completed within eighteen (18) months after the casualty; or (ii) in the case of an attached structure, commenced within three (3) months after the casualty and substantially completed within six (6) months after the casualty, unless the Board of Directors determines in its sole discretion to extend any of the foregoing time periods. If the building or other major improvement will look substantially the same as before the casualty and will otherwise comply with the Design Guidelines, no prior approval of the Covenants Committee shall be required.

Section 1~~1~~0.2 When Reconstruction and Repair of Common Area Not Required. If destruction of the improvements located on the Common Area is insubstantial, the Board of Directors may elect not to repair such insubstantial damage. Otherwise, any decision not to repair or restore improvements located on the Common Area shall be made in accordance with Section 14~~5~~.43. If damaged improvements are not repaired, then the Board of Directors shall remove all remnants of the damaged improvements and restore the site thereof to an acceptable condition compatible with the remainder of the Common Area and the balance of any insurance proceeds received on account of such damage shall be placed in the appropriate reserve account.

ARTICLE 11~~2~~

COMPLIANCE AND DEFAULT

Section 1~~2~~1.1. Compliance; Relief; Vicarious Liability. Each Owner and each Sub-association shall be governed by, and shall comply with, all of the terms of the Association Documents and the Rules and Regulations as they may be amended from time to time. For the purpose of determining a Single Family Lot Owner~~"~~s liability under this Article, with respect to the violation of any provision of the Association Documents, the Rules and Regulations or for an act ~~of negligence or carelessness~~, the acts of such Owner~~"~~s tenants, and such Owner~~"~~s (or tenants)

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household or company, or guests, customers, employees, agents, or invitees shall be deemed to be acts of the Owner. A default by an Owner or Sub-association shall entitle the Association, acting through its Board of Directors or through the Managing Agent, to the following relief.

~~12.1 (a)~~ 11.1 (a) Additional Liability. Each Owner and Sub-association, shall be liable to the Association or to any affected Owner or Sub-association for any and all of the costs and expenses of all Upkeep rendered necessary by such Owner's or Sub-association's act or omission, regardless of negligence or culpability ~~but only to the extent that such expense is not covered by the proceeds of insurance carried by the Association~~. Such liability shall include any increase in casualty insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation. Any costs, including without limitation legal fees or other costs or expenses of litigation, incurred by the Association as a result of the failure of any Owner or Sub-association to comply with the Association Documents or the Rules and Regulations, or for which any Owner or Sub-association is deemed responsible hereunder, may be assessed against such Owner's Lot or such Sub-association and collected in accordance with Section 5.7.

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11.1 (b) Costs and Attorney's Fees. In any proceedings brought by the Association ~~arising out of any alleged default by~~ against any Owner or a Sub-association or any suit brought by an Owner or a Sub-association against the Association or any member of the Board of Directors or Officer, the Association shall be entitled to recover the costs of such proceeding and reasonable attorneys' fees, collection costs, and other costs or expenses of litigation even if the proceeding is settled prior to judgment.

11.1 (c) No Waiver of Rights. The failure of the Association, the Board of Directors or of any Owner to enforce any right, provision, covenant or condition which may be granted by the Association Documents or the Rules and Regulations shall not constitute a waiver of the right of the Association, the Board of Directors or any Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any Owner pursuant to any term, provision, covenant or condition of the Association Documents shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Association Documents, the Act or by any other applicable law.

11.1 (d) Interest. If a default by any Owner in paying any sum assessed against such Owner's Lot, or any Sub-association in paying any amount due and owing to the Association, continues for a period in excess of thirty (30) days, interest at a rate not to exceed the judgment rate of interest as determined under the Virginia Code ~~may~~ shall be imposed ~~in the discretion of the Board of Directors~~ on the principal amount unpaid from the date due until paid; provided, however, that if, in its discretion, the Board of Directors does not impose interest, the Board of Directors shall set forth its reasons for not imposing such interest in a written record of its decision. The imposition of interest shall not preclude collection of a late charge nor shall a late charge levied pursuant to Section 5.4~~6.5~~ be considered interest subject to the limitations of this subsection.

11.1 (e) Abating and Enjoining Violations. The breach or violation of any provision of the Association Documents, or the breach or violation of any of the Rules and Regulations adopted by the Board of Directors, shall give the Board of Directors the right, in addition to any other rights or remedies set forth in the Association Documents or the Rules and Regulations: (i) to enter the portion of the Property ~~(excluding any improvement)~~ on which, or as to which, such breach or violation exists and summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions of the Association Documents or the Rules and Regulations, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass; (ii) to use self-help to remove or cure any breach or violation of the Association Documents or the Rules and Regulations on the Property (including without limitation the towing of vehicles without prior notice); or (iii) to enjoin, abate or remedy by appropriate legal proceedings the continuance of any such breach or violation: provided, however, that (i) reasonable notice shall be provided (except in case of emergency as determined by the Board of Directors or Officers) before entering into any ~~into any improvement~~Lot, though an Owner is not required to respond to the notice or be present for the Association to enter, and (ii) before any construction may be altered or demolished ((~~except~~ in case of emergency as determined by the Board of Directors or Officers) appropriate judicial proceedings shall be instituted.

11.1 (f) Legal Proceedings. Failure to comply with any of the terms of the Association Documents or the Rules and Regulations shall be grounds for relief or the following legal action where permitted by Article 11~~2~~: (i) an action to recover any sums due for money damages;~~,~~ (ii) an action for injunctive relief; (iii) an action or other appropriate proceeding to foreclose the lien for payment of all Assessments; and (iv) any other right, remedy, or relief provided for in the Association Documents and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, the Managing Agent or, if appropriate, by any aggrieved Owner and shall not constitute an election of remedies. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any of the Association's covenants or restrictions cannot be adequately remedied by action at law or exclusively by recovery of damages.

11.1 (g) Suspension of Rights; Other Remedies. In accordance with Virginia Code § 55.1-1819, ~~T~~the Board of Directors or the applicable Covenants Committee shall have the power to suspend an Owner~~'~~'s or Sub-association~~'~~'s voting rights for failure to pay Assessments pursuant to the Bylaws.

The Board of Directors, or the appropriate Covenants Committee, shall also have the power to suspend the right of an Owner, or occupant, and the right of such Person~~'~~'s household or company, tenants, guests, customers, employees, agents and invitees, to use Common Area, including recreational facilities and other amenities or facilities, for a reasonable period not to exceed sixty (60) days for any violation of any provision of any of the Association Documents or the Rules and Regulations or for any period during which any Assessment against an Owner~~'~~'s Lot remains unpaid; provided, however, that the Association shall not suspend the right to use the Private Streets and Roadways located on the Common Area for both vehicular and pedestrian ingress and egress to and from such Owner~~'~~'s Lot and for parking or to use the Common Area for

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necessary, ordinary and reasonable pedestrian ingress arid egress to and from such Owner's Lot, or to suspend any easement over the Common Area for utilities (storm water drainage, electricity, water, sanitary sewer, natural gas) or telecommunications (television reception, telephone service) or similar utilities and services to the Lots. Notwithstanding the foregoing, if a utility service is paid for as a Common Expense or a Limited Common Expense and an Owner does not pay the Assessment for such Common Expense or Limited Common Expense for a period of more than sixty (60) days, then such utility service may be discontinued to such Owner until payment of the Assessment for such service is made; provided, however, that such suspension shall not endanger the health, safety or property of any Owner or occupant.

11.1 (h) ~~—~~Charges. In accordance with Virginia Code § 55.1-1819. The Board of Directors or the appropriate Covenants Committee (depending on the provision violated and which entity has the responsibility to enforce the provisions) shall have the power to impose charges in the case of an Owner or a Sub-association found by the Board of Directors or Committee to be responsible for a violation of the Association Documents or the Rules and Regulations.

~~12.1 (b)~~ No such penalty shall be imposed until the Person charged with such a violation has been given notice and an opportunity for a hearing as set forth in ~~paragraph (i) below~~Section 11.2 below. Charges or sanctions may not exceed Fifty Dollars ($50.00) for each violation or Ten Dollars ($10.00) per day for each violation of a continuing nature (subject to such limitations as may be imposed by the POA Act) or such greater amounts as may be permitted by the POA Act and imposed by the Board of Directors or the appropriate Covenants Committee. No charge may be imposed for failure to pay an Assessment except as otherwise provided in the Declaration. Charges are Individual Assessments and shall be collectible as such and, if against an Owner, shall also constitute a lien against a Lot in accordance with Section 11~~2~~.3 to the extent permissible under the law of the jurisdiction in which the Property is located. Imposition of a charge does not preclude the liability of an Owner for reimbursement to the Association of legal fees, costs or other expenses incurred by the Association.

11.1 (i) Privacy and Quiet Enjoyment. Neither the Board of Directors, the Covenants Committee, nor the Association shall interfere with the lifestyle or conduct of, or invade the privacy of, any occupant within a dwelling unless necessary to protect the rights of other occupants or to protect adjacent Property from damage.

11.1 (j) New Owner Information. If the contract seller or the new Owner of any Lot does not give the Secretary written notice stating the name and address of the new Owner and the number or address of the Lot within thirty (30) days after acquiring title to such Lot, then reasonable record-keeping costs incurred by the Association, as determined by the Board of Directors, may be assessed against such Owner's Lot. The Board of Directors may set or change the amount of such Assessment from time to time. Such Assessment shall be a lien against such Owner's Lot as provided in Section 11~~2~~.3.

11.1 (k) Enforcement against Sub-associations. If a Sub-association fails to pay any Assessment or charge due from such Sub-association within thirty (30) days after due, then the Association may attach any assessments or charges due from the Owners to such Sub-association and notify such Owners that all assessments or other charges shall be paid directly to the

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Association until such Owners are notified otherwise. The Association may then retain such portion of the sums collected to satisfy the amount due from the Sub-association and shall remit any sums collected in excess of Assessments or charges due to such Sub-association.

Section 1~~1~~2.2 ~~—~~Due Process. The Board of Directors or the appropriate Covenants Committee shall follow the due process procedure required by Virginia Code § 55.1-1819~~may deliberate privately, but shall either announce its decision in the presence of the Respondent or give the Respondent notice thereof. A decision adverse to the Respondent shall require a two-thirds (2/3) vote of the entire membership of the Board of Directors or appropriate Covenants Committee. The Board of Directors or appropriate Covenants Committee, before imposing any charge or before taking any action affecting one or more specific Owners, or Subassociations, shall afford such Owners or Subassociations the following basic due process rights.~~

~~12.2 (a) Notice. The Respondent shall be afforded prior written notice of any action (except when an emergency requires immediate action) and, if notice is of default or violation, an opportunity to cure which is reasonable under the circumstances, prior to the imposition of any sanction. The notice shall also state that the Respondent is entitled to a hearing, if a hearing is required pursuant to Subsections 12.1(g) and 12.1(h). Notice of a hearing shall include a summary of the charges or other sanctions that may be imposed as a result of the alleged violation. Notice of any violation or any hearing shall be sent by registered or certified United States mail, return receipt requested (or any other manner permitted by the law), to the Owner at such Owner's address of record with the Association at least fourteen (14) days prior to such hearing or as may otherwise be required by the POA Act.~~

~~12.2 (b) Hearing. If the Respondent is entitled to a hearing and requests in writing a hearing before any charge is imposed or action taken, then the imposition of the charge or the taking of the action shall be suspended until the Respondent has an opportunity to be heard at a hearing at which the Board of Directors or the appropriate Covenants Committee discusses such charge or action. Each Person so appearing shall have the right to be represented by such Person's legal counsel, at such Person's own expense. The hearing result shall be hand delivered or sent by registered or certified mail United States, return receipt requested (or any other manner permitted by law), to the Owner at the Owner's address of record with the Association within three (3) days after the hearing.~~

11.2 (a) Appeal. Upon receipt of a written request therefor made within ten (10) days after the date of an action by the Covenants Committee, the Board of Directors may afford any Person deemed by the Board of Directors to have standing as an aggrieved party the right to appeal to the Board of Directors, and the Board of Directors may reconsider, review, modify or reverse any action taken by the Covenants Committee; provided, however, that the Board of Directors shall have no jurisdiction over decisions made by the Design Review Committee or the Commercial Review Committee.

11.2 (b) Fairness. The Board of Directors and the Covenants Committees shall treat all Persons fairly and equitably, based upon decision-making procedures, standards and guidelines which shall be applied to all Persons consistently.

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Section 11~~2~~.3. Lien for Assessments.

11.3 (a) –Lien. In addition to the lien established by the POA Act, the total Annual Assessment of each Owner for Common Expenses, including Limited Common Expenses, any Additional Assessment, any Individual Assessment, any Telecommunications Assessment, or any other sum duly levied (including without limitation charges, interest, late charges, attorneys' fees, collection costs, or costs or expenses of litigation, or other contractual charges, etc.), made pursuant to the Association Documents, is hereby declared to be a lien levied against any Lot owned by any Owner in accordance with this Declaration and § 55.1-1833 ~~Section 55-516~~ of the POA Act. Until fully paid and satisfied, the lien shall apply to and encumber all of the Lots that were owned, as of the date when payment was due, by the Owner from whom payment was due, and shall also apply to and encumber any and all Lots thereafter acquired by that Owner from the time such Owner becomes the Owner thereof until fully paid and satisfied.

~~12.3 (a)~~ With respect to Annual Assessments, the lien is effective on the first day of each fiscal year of the Association and, as to Additional Assessments, Individual Assessments, Telecommunications Assessment and other sums duly levied, on the first day of the next payment period which begins more than ten (10) days after the date of notice to the Owner of such Additional Assessment, Individual Assessment, Telecommunications Assessment or levy. The Board of Directors or the Managing Agent may file or record such other or further notice of any such lien, or such other or further document, as may be required to confirm the establishment and priority of such lien. The lien created by this Section shall be prior to all liens and encumbrances thereafter recorded except Mortgages, real estate taxes and other charges levied by governmental authority and made superior by law. The personal obligation of the Owner to pay such Assessment shall, in addition, remain such Owner's personal obligation and a suit to recover a money judgment for nonpayment of any Assessment or installment thereof, levied pursuant hereto, may be maintained without foreclosing, waiving or further perfecting the lien herein created to secure the same.

~~12.3 (b)~~ 11.3 (b) –Acceleration. If an Assessment against an Owner is payable in installments, upon a default by such Owner in the timely payment of any ~~two (2) consecutive~~ installments, the maturity of the remaining total of the unpaid installments of such Assessment may be accelerated, at the option of the Board of Directors, and the entire balance of the Assessment may be declared due and payable in full ~~by the service of notice to such effect upon the defaulting Owner~~. If an Owner is delinquent in payment of Assessments for a prior fiscal year, then the entire Assessment for the following year (otherwise payable in installments) shall be due and payable in full when assessed~~, upon receipt of notice of such Assessment by the defaulting Owner~~. Any decision of the Board of Directors to accelerate the entire balance of any Assessment may be reversed or revoked by the Board of Directors at any time and from time to time in its sole discretion.

~~12.3 (c)~~ 11.3 (c) –Enforcement. The lien for Assessments may be enforced and foreclosed in any manner permitted by the laws of the jurisdiction in which the Lot is located for foreclosure of mortgages or deeds of trust containing a power of sale pursuant to Section 11~~2~~.5 or the applicable provisions of the POA Act or by an action in the name of the Board of Directors, or the Managing Agent, acting on behalf of the Association. Any such sale provided for herein is

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to be conducted in accordance with the provisions of Section § 55.1-1833 ~~55-516(I)~~ of the POA Act, or the provisions of Sections § 55.1-321 ~~55-59.1~~ through § 55.1-324 ~~55-59.4~~ of the Virginia Code, as amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted or provided by law. ~~The Declarant, through its duly authorized agents, shall have the power to bid on any property offered for sale at any such foreclosure sale, and to acquire, lease, mortgage and convey the same.~~ During the pendency of any such action to enforce the Association lien, the Owner shall be required to pay a reasonable rental for the Lot for any period prior to sale pursuant to any judgment or order of any court having jurisdiction over such sale. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of the jurisdiction. The Association shall also have the power to bid on the Lot at foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with such Lot.

~~12.3 (d)~~ 11.3 (d) Remedies Cumulative. A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosing or waiving the lien securing the same. A foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

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Section 1~~2~~1.4. Subordination and Mortgagee Protection. Notwithstanding any other provision hereof to the contrary, the lien of any Assessment levied pursuant to the Association Documents upon any Lot (and any charges, interest on Assessments, late charges or the like) shall be subordinate to, and shall in no way affect the rights of the holder of a Mortgage made in good faith for value received; provided, however, that such subordination shall apply only to Assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to foreclosure or any proceeding in lieu of foreclosure by the holder or beneficiary of such Mortgage. Such sale or transfer shall not relieve the holder of Mortgage, or the purchaser of the Lot at such sale or transfer, from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment, which lien shall have the same priority and effect and be enforced in the same manner as provided herein. Notwithstanding any other provision of this Declaration, to the extent specifically permitted by the Virginia Code in the future, the Association's lien shall prime and be superior to a Mortgage to the extent of the aggregate amount of the Assessments which would have become due during the immediately preceding six (6) month period of time preceding perfection of the lien (based on the budget adopted by the Association) exclusive of any portion of the Assessments that come due based upon the Association's exercise of any right of acceleration during the six (6) months immediately preceding perfection of the lien such period of time.

Section 1~~2~~1.5. Supplemental Enforcement of the Lien. In addition to the proceedings at law or in equity for the enforcement of the lien established by the Association Documents, all of the Owners may be required by the ~~Declarant or the~~ Board of Directors to execute bonds conditioned upon the faithful performance and payment of the installments of the lien established thereby and may likewise be required to secure the payment of such future obligations by recording a declaration of trust in the Land Records granting unto one or more trustees appropriate powers to the end that, upon default in the performance of such bond such declaration of trust may be foreclosed by such trustees acting at the direction of the Board of Directors. If any such bonds

have been executed and such declaration of trust is recorded, then any subsequent purchaser of a Lot shall take title subject thereto and shall assume the obligations provided for therein.

ARTICLE 123

MORTGAGEES

Section 132.1. Notice to Board of Directors. A~~Upon request, a~~n Owner who mortgages such Owner's Lot shall notify the Board of Directors of the name and address of the holder of the Mortgage. No holder of a Mortgage shall be entitled to any Mortgagee rights under the Association Documents unless such holder of a Mortgage has notified the Board of Directors of such Mortgagee's address as required by Section 123.2 and has requested all rights under the Association Documents; provided, however, that in no event shall the failure of any Mortgagee to give notice to the Association diminish, impair or affect the lien, priority, operation or effect of such Mortgagee's Mortgage.

Section 132.2. Notices to Mortgagees. Any holder of a Mortgage who desires notice from the Association shall notify the Secretary of the Association to that effect by certified or registered United States mail, postage prepaid. Any such notice shall contain the name and address, including post office address of such Mortgagee, the name of the person to whom or office to which notices from the Association should be directed, and the name and address of the applicable Owner. The Mortgagee shall be responsible for keeping such information current. The Board of Directors shall notify Mortgagees of the following:

(i) ~~(i)~~ any default by an Owner of a Lot upon which the Mortgagee has a Mortgage (a) in paying Assessments (which remains uncured for sixty consecutive days) or (b) any other default, simultaneously with the notice sent to the defaulting Owner (failure to notify the Mortgagee shall not affect the validity of the Association's lien);

(ii) ~~(ii)~~ in accordance with Subsection 910.2(d), any event giving rise to a claim under the Association's property insurance policy arising from damage to improvements located on the Common Area;

(iii) ~~(iii)~~ all actions taken by the Association with respect to reconstruction of the Common Area or a Lot upon which the Mortgagee has a Mortgage;

(iv) ~~(iv)~~ any termination, lapse or material adverse modification in an insurance policy held by the Association at least ten (10) days in advance thereof,

(v) ~~(v)~~ any taking in condemnation or by eminent domain of the Common Area and the actions of the Association in connection therewith;

(vi) ~~(vi)~~ any proposal to terminate this Declaration or dissolve the Association, at least thirty (30) days before any action is taken to terminate or dissolve in accordance with Articles 145 and 156; and

(vii) ~~(vii)~~ any proposal to amend materially the Articles of Incorporation, this Declaration or the Bylaws or to take an extraordinary action, at least ten (10) days before any action is taken pursuant to Section 145.43.

Section 132.3 Other Rights of Mortgagees. Upon request, all Mortgagees or their authorized representatives shall have the right to receive notice of and to attend and speak at meetings of the Association. All Mortgagees shall have the right to examine the Association

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Documents, Rules and Regulations and books and records of the Association and to require the submission of existing annual financial reports and other budgetary information on the same terms as the Owners. A Majority of the Mortgagees may make a request and shall be entitled to an audited financial statement for the preceding fiscal year of the Association prepared at the Association's expense and provided within a reasonable time. A Majority of the Mortgagees shall have the right to require the Association to hire a professional manager. Neither Mortgagees nor holders of Mortgages shall have notice or approval rights with respect to the actions of the ~~Declarant or the~~ Association except as specifically set forth in the Declaration.

ARTICLE 134

CONDEMNATION

Section 143.1. Definition. For the purposes of this Article, ""Taking"" means an acquisition of all or any part of the Common Area or of any interest therein or right accruing thereto as a result of or in lieu of or in anticipation of the exercise of the right of condemnation or eminent domain, or a change of grade caused by the action of a governmental entity affecting the value of the Common Area or any part thereof so severely as to amount to condemnation.

Section 143.2. Taking of Common Area. If there is a Taking of all or any part of the Common Area, then the Association shall notify the Owners, but the Board of Directors shall act on behalf of the Association in connection therewith and no Owner shall have any right to participate in the proceedings incident thereto. The award made for such Taking shall be payable to the Association. If the Taking involves a portion of the Common Area on which improvements have been constructed, then the Association shall restore or replace such improvements so taken on another portion of the Common Area, to the extent space is available therefor, in accordance with plans approved by the Board of Directors, unless within sixty (60) days after such Taking the ~~Declarant (during the Declarant Control Period) or the~~ Owners, by the affirmative vote of sixty-seven percent (67%) of the votes of the Owners ~~(after the Declarant Control Period)~~ shall otherwise agree. The provisions of Article 10~~1~~ regarding the disbursement of funds following damage or destruction shall control the disbursement of funds following any Taking.

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ARTICLE 145

AMENDMENT; EXTRAORDINARY ACTIONS

~~**Section 15.1. Amendment by the Declarant.** In addition to corrective amendments made pursuant to Section 15.6, during the Development Period and subject to Section 15.5, the Declarant may unilaterally without the joinder or approval of the Association or any Owner, Mortgagee or Secondary Mortgage Market Agency amend any provision of this Declaration to: (1) satisfy the requirements of any government., governmental agency, Secondary Mortgage Market Agency or Mortgagee or to satisfy or otherwise comply with any Proffer relating to the Property; (2) reflect the relocation of boundary lines between the Common Area and any Lots or among any Lots; provided, however, that such relocation does not materially and adversely affect any Owner other than the Declarant, and that such relocation is reflected in an approved resubdivision of all or any part of the Property if so required; (3) amend Exhibits A and Exhibit B (pursuant to Subsection 4.1(b)); (4) add all or any portion of the Additional Land in accordance with Section 4.1, and (5) withdraw Submitted Land in accordance with Section 4.4.~~

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Section 1~~5~~.1~~2~~. Amendment by the Association.

~~15.2 (a)~~ 14.1 (a) –Owner Approval. In addition to corrective amendments made pursuant to Section ~~15.6~~14.4 and subject to Sections 1~~5~~.3~~2~~, 1~~5~~.4~~3~~ and 1~~5~~.4~~5~~, and to the extent permitted by law, the Association ~~(with the prior written consent of the Declarant during the Development Period)~~ may amend this Declaration in accordance with Section § 55.1-1829 ~~55-515.1~~(D) of the POA Act by agreement of Owners of two-thirds (2/3) of the Lots ~~and~~memorialized ~~, if permitted by law in the future,~~ by the affirmative vote of at least sixty-seven percent (67%) of the Owners or with the written approval of Owners entitled to cast at least sixty-seven percent (67%) of the total number of votes. In addition, any amendment affecting a specific Class of Owner shall require a Majority Vote of such Class.

~~15.2 (b)~~ 14.1 (b) –Certification. An amendment by the Association shall be certified by the President as to compliance with the procedures set forth in this Article, signed and acknowledged by the President and Secretary of the Association, and recorded among the Land Records. In accordance with Section § 55.1-1829 (E)~~55-515.1E~~ of the POA Act, an action to challenge the validity of an amendment may not be brought more than one (1) year after the amendment is recorded among the Land Records or the after the effective date thereof, whichever first occurs.

~~15.2 (c)~~ 14.1 (c) —Supplementary Declarations. The amendment of a Supplementary Declaration is governed by the provisions for amendment contained therein and the requirements of Sections 1~~5~~.2~~3~~, 1~~5~~.4~~3~~ and 1~~5~~.5~~4~~. A Supplementary Declaration may not include provisions inconsistent with the Declaration ~~except as specifically provided by the Declarant in accordance with Sections 3.1, 3.8, 4.1, 6.2, 8.4 and 9.5~~. Although the Declaration and Supplementary Declaration should be construed to give effect to both, in the case of conflicting provisions, the Declaration shall control.

Section 1~~5~~4.3~~2~~. Prerequisites to Amendment. Written notice of any proposed amendment to this Declaration or any Supplementary Declaration by the Association shall be sent to every Owner (or every Owner of a Lot or Owner governing Lots subject to such Supplementary Declaration) at least fifteen (15) days before any action is taken. No amendment shall increase the financial obligations of an Owner in a discriminatory manner or further restrict development on existing Lots in a discriminatory manner. ~~No amendment to the Declaration shall diminish or impair the rights of the Declarant during the Development Period under the Declaration without the prior written consent of the Declarant,~~ No amendment to the Declaration shall diminish or impair the express rights of the Mortgagees under the Declaration without the prior written approval of at least fifty-one percent (51%) of the Mortgagees. No amendment may modify this Article or the rights of any Person hereunder without obtaining the approvals required by Subsections 1~~5~~4.4~~3~~(c) and (d). Except as specifically provided in the Declaration, no provision of the Declaration shall be construed to grant to any Owner or to any other Person any priority over any rights of Mortgagees.

Section 1~~5~~4.4~~3~~. Extraordinary Actions and Material Amendments. The provisions of this Section shall not be construed to reduce the vote that must be obtained from Owners where a

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greater vote is required by the Act, the POA Act or other provisions of the Association Documents ~~nor shall it be construed to lessen the unilateral rights given to the Declarant pursuant to Articles 3, 4 and 15 to amend the Declaration or a Supplementary Declaration~~. To the extent this Section applies to amendments to a Supplementary Declaration, the approval of the Owners required shall be deemed to refer only to the Owners owning or governing Lots or the Mortgagees holding Mortgages on Lots subject to such Supplementary Declaration.

~~15.4 (a)~~ 14.3 (a) Material Amendments. For the purposes of this Declaration a "~~"~~material amendment~~"~~" means any amendment amending or modifying any provisions regarding:

(1) Assessment basis or Assessment liens;

(2) any method of imposing or determining any charges to be levied against Owners;

(3) reserves for Upkeep of the Common Area;

(4) Upkeep;

(5) allocation of rights to use the Common Area;

~~(5)~~

(6) any scheme of regulation or enforcement of standards for Upkeep, architectural design or exterior appearance of improvements;

(7) reduction of insurance requirements;

(8) restoration or repair of the Common Area or Lots;

(9) addition, annexation or withdrawal of real estate to or from the Property;

(10) voting rights ~~(except to reduce the Declarant's voting rights with the consent of the Declarant)~~;

(11) restrictions affecting lease or sale of a Lot; and

(12) any provision which is for the express benefit of Mortgagees.

~~15.4 (b)~~ 14.3 (b) Extraordinary Actions. For the purposes of this Declaration an "~~"~~extraordinary action~~"~~" of the Association means any action:

(1) determining not to require professional management ~~after the Declarant Control Period~~, if professional management has been required by the Association Documents, a Majority Vote of the Owners or a Majority Vote (or approval) of the Mortgagees;

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(2) expanding the Association (i) so as to increase the overall land area of the Property described in Exhibit A and Exhibit B by greater than ten percent (10%) in land area or increase the number of planned dwellings or non-residential development by greater than ten percent or (ii) by including real estate which is not adjacent to or across a public right-of-way or private street from the Property;

(3) abandoning, partitioning, encumbering, mortgaging, conveying, selling or otherwise transferring or relocating the boundaries of the Common Area except for: (i) granting easements for utilities or other purposes to serve the Property or adjacent real estate which are not inconsistent with and which do not interfere with the intended use of such Common Area; (ii) dedicating or conveying a portion of the Common Area to a public authority or a governmental entity; (iii) making conveyances or resubdivisions as part of a boundary-line adjustment ~~or otherwise pursuant to Section 2.5~~; (iv) conveyances to a Sub-association or another property owners association created within the Submitted ~~or Additional Land~~; or (v) conveyances to an entity formed for similar purposes pursuant to a consolidation or merger;

(4) using insurance proceeds for purposes other than repair and reconstruction of the insured improvements;

(5) making capital improvements (other than for Upkeep of existing Common Area improvements) during any period of twelve (12) consecutive months costing in excess of twenty percent (20%) in the aggregate of the total Annual Assessment for Common Expenses for the fiscal year.

~~15.4 (c)~~ 14.3 (c) Owner Approval. Any material amendment or extraordinary action proposed to be taken by the Association must be approved: (i) in writing by Owners entitled to cast at least sixty-seven percent (67%) of the total number of votes entitled to be east by Owners, including a majority of the votes entitled to be cast by Owners ~~other than the Declarant~~, or (ii) by the affirmative vote of not less than sixty-seven percent (67%) of the votes of the Owners, including a Majority Vote of Owners ~~other than the Declarant~~, entitled to be cast at a meeting for approval of material amendments or extraordinary actions provided that: (A) at least twenty-five (25) days prior written notice of the meeting is provided to all Owners; (B) the notice of the meeting states the purpose of the meeting and contains a copy or summary of any material amendments or extraordinary actions proposed; and (C) the notice of the meeting also contains a copy of the proxy that can be cast in lieu of attendance at the meeting.

~~15.4 (d)~~ 14.3 (d) Class Approval. Any material amendment which changes the rights or obligations of any specific class of Owners, must also be approved: (i) in writing by Owners entitled to cast at least fifty-one percent (51%) of the total number of votes of the Owners of such class; or (ii) by the Majority Vote of the Owners of such Class of Owners at a meeting held in accordance with Subsection (c) above.

~~15.4 (e)~~ 14.3 (e) Additional Material Amendments and Extraordinary Actions. The following amendments and actions must be approved in writing by Owners entitled to cast at least sixty-seven percent (67%) of the total number of votes of the Association, including

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a majority of the total number of votes entitled to be cast by Owners ~~other than the Declarant during the Declarant Control Period, and the Declarant during the Development Period~~:

(1) amendment or addition of any provisions of the Association Documents regarding rights of first refusal or similar restrictions on the right of Owners to sell, transfer or otherwise convey a unit;

(2) termination of the Declaration or of the planned unit development;

(3) dissolving, merging or consolidating the Association, except pursuant to a merger or consolidation with another nonprofit entity formed for purposes similar to the purposes for which the Association was formed; or

(4) conveyance of all the Common Area, except to an entity formed for similar purposes pursuant to a consolidation or a merger.

~~15.4 (f)~~14.3 (f) –Non-material Amendments. Any amendment to the Association Documents shall not be considered material if made only for the purposes of correcting technical errors or for clarification. Any amendment to the Association Documents shall not be considered material if made only for the purposes of complying with applicable federal, state or local law, or complying with any zoning, land use, or other governmental restriction or requirement applicable to the Association and/or the Property. Any amendment to the Association Documents adding provisions to or interpreting the application of provisions of the Declaration, contained in a Supplementary Declaration and applied to a specific portion of the Property, shall not be considered a material amendment. Any amendment to the Association Documents necessary to comply with the requirements of Secondary Mortgage Market Agencies may be made ~~by the Declarant, during the Declarant Control Period, and thereafter~~ by the Association.

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~~15.4 (g)~~ 14.3 (g) –VA or FHA Consent. When a VA guarantee is in effect on a Mortgage, without the consent of VA, or when FHA insurance is in effect on a Mortgage, without the consent of FHA ~~: (i) the Declarant may not amend the description of Additional Land except as provided in Section 4.1; and (ii) during the Declarant Control Period,~~ the Association may not take any action described in Subsections 1~~5~~.43(a), (b) or (e). The foregoing shall only apply for so long as a Lot within the Property is encumbered by a loan guaranteed by VA or insured by FHA. ~~In addition, during the Declarant Control Period, VA and FHA must be informed of all amendments to the Association Documents if such documents have been previously approved by such agency.~~ This provision may be enforced only by FHA or VA.

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~~15.4 (h)~~ 14.3 (h) ~~Contracts made by the Association during the Declarant Control Period. All Association contracts made during the Declarant Control Period which extend beyond the Declarant Control Period must meet at least one of the following criteria: (i) be for a term limited to two (2) years or less; (ii) be terminable by the Association upon ninety (90) days written notice; (iii) be commercially reasonable and made with an entity not affiliated with the Declarant; or (iv) be approved by VA.~~

~~15.4 (i)~~ County Approval. A number of provisions are contained in this Declaration to comply with the Proffers and/or conditions of subdivision approval applicable to the Property. No Supplementary Declaration or amendment of this Declaration shall impair the right and authority of the County to require compliance with any Proffers and/or subdivision approval conditions applicable to the Property without the prior written approval of the County.

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Section 1~~4~~5.~~4~~5. Corrective Amendments. ~~The Declarant may unilaterally sign and record a corrective amendment or supplement to the Declaration to correct a mathematical mistake, an inconsistency or a scrivener's error, or clarify an ambiguity in the Declaration with respect to an objectively verifiable fact (including without limitation recalculating the liability for Assessments or the number of votes in the Association appertaining to a Lot), at any time within five (5) years after the recordation of the Declaration containing or creating such mistake, inconsistency, error or ambiguity.~~ Regardless of the date of recordation of the Declaration, the President of the Association may ~~also~~ unilaterally sign and record a corrective amendment or supplement to correct a mathematical mistake, an inconsistency or a scrivener's error, or clarify an ambiguity in the Declaration with respect to an objectively verifiable fact (including without limitation recalculating the liability for Assessments or the number of votes in the Association appertaining to a Lot) ~~such a corrective amendment or supplement~~ upon a vote of two-thirds (2/3) of the members of the Board of Directors.

ARTICLE 1~~5~~6

TELECOMMUNICATIONS SERVICES

Section 1~~6~~5.1. Telecom Agreement. In consideration of and in order to facilitate the installation of the Telecom System and in consideration of the extensive infrastructure relating to the installation and construction of a private telecommunications services system for the Property, ~~the Declarant and~~ the Association has or may hereafter enter into an agreement (the "~~"~~Telecom Agreement"~~"~~) with a Telecom Provider to provide certain telecommunications services to all Lots located within the Property (except as hereinafter provided). After the date of the execution of the Telecom Agreement, a copy of the Telecom Agreement shall at all times be maintained among the books and records of the Association and shall be available for inspection and copying by Owners and/or contract purchasers of Lots at the Property upon written request therefor. The Telecom Agreement shall be subject to such modification, amendment, termination, extension or renewal of the terms and conditions thereof as may be set forth therein. ~~Notwithstanding anything to the contrary contained herein, the provisions of this Article 16 shall not apply to any portion of the Property (and the Owners thereof) that is owned by Winchester or a Builder prior to the date of this Declaration. However, a Builder that has purchased Lots prior to the date of this Declaration may decide to subject such Lots to the provisions of this Article 16, subject to agreement between such Builder and the Declarant, during the Declarant Control Period, and thereafter the Association, in either case, which agreement shall be recorded among the Land Records.~~

Section 1~~6~~5.2. Basic Services. As may be set forth in the Telecom Agreement, the Telecom Provider shall provide certain basic telecommunication services to the Owners including local telephone service, digital video service with additional digital audio channels, and fiber optic-based ultra high-speed Internet access (collectively referred to herein as the "~~"~~Basic Services"~~"~~).

The Telecom Provider shall provide the Basic Services to every Single-Family Lot and every residential dwelling unit located within every Multifamily Lot within the Property.

Section 165.3. Telecommunication Service Assessments. Owners ~~(other than the Declarant and Builders)~~ shall be obligated to pay a telecommunication service fee to the Association for further distribution to the Telecom Provider in consideration of and as payment for the Telecom Provider providing telecommunication services to the Owners (the "Telecommunication Service Fee" or the "Monthly Owner Fee"). The Telecommunication Service Fee shall be determined and calculated based upon the Telecom Agreement and may be adjusted, increased or decreased from time to time in accordance with the terms of the Telecom Agreement. The liability of each Owner for and obligation to pay the Telecommunication Service Fee shall commence as to such Owner on that date the Lot is conveyed by deed to such Owner ~~(other than the Declarant and Builders)~~. The Telecommunication Service Fees for the entire Property shall be included in the Association's annual budget and assessed against each Owner ~~(other than the Declarant and Builders)~~ as part of the Annual Assessment, as defined in Section 56.2(a) of the Declaration, or as a separately stated fee and Assessment, as may be determined ~~by the Declarant, during the Declarant Control Period, and thereafter~~ by the Board of Directors.

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Section 165.4. HOA Monthly Fee. The Association shall be responsible for paying to the Telecom Provider a fixed monthly fee (the "~~"~~HB~~O~~A Monthly Fee"~~"~~) for the Basic Services. So long as the Telecom Provider provides the Basic Services the Association shall be responsible for paying the HOA Monthly Fee to the Telecom Provider regardless of the level of use of the Basic Services by any Owner(s) and/or the aggregate number of Lots or residential dwelling units located within Multifamily Lots actually utilizing the Basic Services. The Monthly Owner Fee payable by each Owner pursuant to Section 156.3 hereof shall represent each Owner's proportionate share of the HOA Monthly Fee, regardless of any such Owner's actual use and/or subscription to such Basic Services, all as may be determined by ~~the Declarant, during the Declarant Control Period, and thereafter by~~ the Board of Directors.

Section 165.5. Alternate Providers. Each Owner shall have the right to purchase one or more of the Basic Services, such as local telephone service, from any other alternate provider or providers of such services; provided, however, such Owner shall remain obligated to pay the Monthly Owner Fee to the Association and the HOA Monthly Fee payable by the Association to the Telecom Provider shall nonetheless be calculated as if all Owners subscribed to and utilized all of the Basic Services from the Telecom Provider. Owners may NOT opt out of paying the Monthly Owner Fee by electing not to subscribe to or utilize the Basic Services provided by the Telecom Provider.

Section 165.6. Premium Services. Certain additional telecommunication services (collectively referred to herein as the "Premium Services") may be offered and made available to each Lot within the Property by the Telecom Provider. Fees charged by the Telecom Provider for Premium Services shall be charged to an Owner only if the Owner actually elects to subscribe to such services from the Telecom Provider upon such terms and conditions as may be offered by the Telecom Provider. There shall be at least two (2) levels or categories of Premium Services. The first category of Premium Services shall include, but not be limited to, ancillary and additional services related to Basic Services, such as call waiting and long-distance telephone service, HBO

(video) and additional e-mail accounts (Internet). The second category of Premium Services shall include services which utilize the fiber optic network and the Internet, but are stand-alone services, including but not limited to home security and home automation. No Owner shall be required to purchase or subscribe to any Premium Services from the Telecom Provider, and no Owner shall have any financial liability to the Telecom Provider for Premium Services unless such services are actually subscribed to by the Owner and ordered from the Telecom Provider. Unless otherwise agreed between ~~(i) the Declarant, during the Declarant Control Period, and thereafter~~ the Association~~;~~ and ~~(ii)~~ the Telecom Provider, any and all fees, assessments or other charges for the Premium Services shall be billed directly to Owner by the Telecom Provider and any Owner electing to subscribe to such Premium Services agrees to remit payment for such Premium Services directly to the Telecom Provider, in addition to and separate from the Monthly Owner Fee payable to the Association. In no event shall any Owner's failure to remit payment for Premium Services give rise to the Telecom Provider's right to terminate, limit, restrict or cancel the Basic Services to any Owner.

Section 1~~6~~5.7. Responsibility for the Telecommunication Services. ~~During the Declarant Control Period, the Declarant, and thereafter t~~The Association, acting through its Board of Directors, shall endeavor in good faith to assure that the Telecom Provider reasonably and in good faith complies with all of the material terms and conditions of the Telecom Agreement and shall also be responsible for any and all negotiations with the Telecom Provider with regard to any modifications, amendments, extensions or changes to the Telecom Agreement and any telecommunications services provided thereunder, including, but not limited to, any modifications, amendments, extensions or changes that may be available or required as a result of technological changes, innovations or inventions which materially change or alter the manner or method of providing telecommunication services to residential communities.

Section 1~~6~~5.8. Termination/Expiration of Telecom Agreement. In the event the Telecom Agreement is terminated or expires, the ~~Declarant, during the Declarant Control Period, or thereafter the~~ Association, acting through its Board of Directors, shall be responsible for negotiating the terms and conditions of any subsequent telecommunication services agreements; provided, however, before executing any subsequent telecommunications services agreements with the Telecom Provider or any other telecommunications service provider(s), the Board of Directors shall call and conduct an informational meeting of the Members in order to generally explain the proposed terms and conditions of any subsequent agreement and any fees, costs or other assessments payable by the Owners in connection with such telecommunication services. If the Association executes a new agreement to obtain telecommunication services, it shall endeavor to promptly send notice thereof to each Member.

Section 1~~6~~5.9. Maintenance of Telecommunication Services Equipment. Except as otherwise expressly set forth in the Telecom Agreement, the Telecom Provider shall be responsible for the upkeep and maintenance (including repair and replacement) of any and all telecommunication services equipment and facilities located on the Property exclusive of telecommunication services equipment located within the confines of any home, building or other structure located on the Property. The responsibility of the Telecom Provider with regard to the upkeep and maintenance of the telecommunication services equipment and facilities shall include, but not be limited to, any necessary upkeep, repairs and/or maintenance of the telecommunication

service lines, satellites, connections and/or equipment; provided, however, that if any telecommunication service lines, satellites, connections and/or equipment are damaged or destroyed by an Owner, or such Owner's tenants, guests, invitees, licensees, agents or family members, the Association may cause such damage to be repaired at the cost and expense of such Owner and reimburse the Telecom Provider therefor. The Board of Directors may individually assess the cost of any such repairs against such Owner in accordance with the provisions of Section 65.2(d) hereof, and such Individual Assessment shall constitute a lien upon such Owner's Lot and be collectible in the same manner as other Assessments.

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Section 165.10. Quality of Service/ Service Interruptions. The Telecom Provider shall be solely and exclusively responsible for the quality, continuity, availability and level of performance of all telecommunications services to be provided to the Owners. Complaints by Owners regarding the telecommunication services shall be submitted by individual Owners directly to the Telecom Provider. Complaints may be but need not be in writing. The Telecom Provider shall reasonably and in good faith receive, consider, and respond to all complaints regarding the telecommunications services in a timely and commercially reasonable manner. ~~During the Declarant Control Period, the Declarant, and thereafter t~~The Association, acting through its Board of Directors, may at any time and from time to time review and consider the quality or level of service provided by the Telecom Provider and take such action in connection therewith as may be deemed reasonable and appropriate, consistent with the terms and conditions of any underlying contractual agreements. In no event shall the ~~Declarant and/or the~~ Association be liable or responsible to any Owner for the quality, continuity, availability or level of performance of telecommunications services required to be provided by the Telecom Provider.

Section 165.11. Rights of Telecom Provider. The terms and provisions of this Declaration are not intended, and should not be construed, as giving rise to or otherwise creating any rights, remedies, claims or causes of action of any kind, nature or extent whatsoever on behalf of or for the benefit of the Telecom Provider all of which shall be exclusively governed and controlled by the terms and conditions of the Telecom Agreement, or any subsequent agreement relating to or governing the telecommunication services at the Property.

Section 165.12. Ownership of Telecommunications System. Subject to the rights of the Telecom Provider as set forth above, the Telecom System and any and all related infrastructure shall be the property of the ~~Declarant~~ Association.~~(or an affiliated entity or any third party designee that installs such system) unless transferred or sold by the Declarant (or such affiliated entity or third party designee) whereupon any proceeds of such transfer or sale shall belong to the Declarant (or such affiliated entity or third party designees). The Declarant shall have the right, but nriot the obligation to (i) convey, assign or transfer its interest as "landlord" under one (1) or more leases of real property to a 'Telecom Provider; and/or (ii) convey, transfer, sell or assign all or any portion of the Telecom System and/or infrastructure or all or any portion of the rights, duties or obligations with respect thereto to the Association or any other Person (including an Owner, as to any portion of a system located on such Owner's lot). If a Telecom System is installed at the Property by the Declarant (or its affiliate or designee) or by the Telecom Provider to serve the Owners, during the term that such Telecom System is in place, the Association shall make available reasonable space within (a) the Association's community center, or (b) within the Common Area and/or Limited~~

~~Common Area for the equipment and facilities necessary for the Declarant (or its affiliate or designee) or the Telecom Provider to provide such Telecommunication Services.~~

ARTICLE 16~~7~~

TERMINATION

Section 16~~7~~.1. Duration; Termination by the Association. The covenants and restrictions of this Declaration shall run with the land and bind the Property and be in full force and effect in perpetuity except as amended as provided above or unless terminated as hereinafter provided. Subject to Sections 14~~5~~.43 and 14~~5~~.5~~4~~, the Association may terminate this Declaration only by a vote of the Owners entitled to cast at least sixty-seven percent (67%) of the total number of votes as certified by the President or with the written approval of Owners entitled to cast at least sixty-seven percent (67%) of the total number of votes. In either case, the termination shall not be effective without the prior written approval of the County, certified by the President as to compliance with the procedures set forth in this Article, signed and acknowledged by the President and Secretary of the Association and recorded among the Land Records.

Section 1~~7~~6.2. Prerequisites. Written notice of the proposed termination of this Declaration shall be sent to every Owner and Mortgagee at least sixty (60) days before any action is taken. ~~The Declaration may not be terminated during the Declarant Control Period without the prior written consent of the Declarant.~~ Such termination shall not affect any permanent easements or other permanent rights or interests relating to the Property created by or pursuant to the Association Documents. To the extent necessary, the termination agreement shall provide for the transfer or assignment of the easements, rights or interests granted to the Association herein to a successor entity which is assuming the Association~~'~~s Upkeep and regulatory responsibilities. Any lien which has arisen pursuant to the provisions of the Declaration shall remain in full force and effect despite termination of the Declaration until the amounts secured thereby are paid in full.

Section 1~~7~~6.3. Conveyance of Common Area Upon Dissolution. Upon the dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be granted, conveyed and assigned to another nonprofit corporation, association, trust or other organization or government agency devoted to purposes similar to those for which the Association was created, or offered for dedication to the County; provided, however, that if a site plan is approved for the Property, or any portion thereof containing Common Area, which changes the design, layout or use of the Property in such a manner that the Common Area is no longer necessary to the new design, layout or use, then such Common Area and other associated assets of the Association may be distributed as agreed upon by the Owners in accordance with the requirements of Section 1~~5~~4.43.

IN WITNESS WHEREOF, the undersigned have caused this Declaration to be signed pursuant to due and proper authority as of the date first set forth above.

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