

**AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS AND
EASEMENTS**

FOR

THISTLE DOWNS AT THISTLE GOLF CLUB

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**AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS,
RESTRICTIONS AND EASEMENTS
FOR THISTLE DOWNS AT THISTLE GOLF CLUB**

THIS AMENDED AND RESTATED DECLARATION is made by THISTLE DOWNS LIMITED PARTNERSHIP, a Florida limited partnership, qualified to do business in the State of North Carolina (the "Declarant").

RECITALS

A. Thistle Downs Limited Partnership, a Florida limited partnership ("Thistle Downs") entered into that certain Declaration of Protective Covenants, Restrictions and Easements for Thistle Downs at Thistle Golf Club dated as of September 5, 2001, recorded in Book 1529, Page 572, as amended by a First Amendment recorded in Book 3353, Page 782, in the Brunswick County, North Carolina Register of Deeds, as further amended by a Second Amendment recorded in Book 3501, Page 748, in the Brunswick County, North Carolina Register of Deeds, as further amended by a Third Amendment recorded in Book 3518, Page 80, in the Brunswick County, North Carolina Register of Deeds, as further amended by a Fourth Amendment recorded in Book 3877, Page 447, in the Brunswick County, North Carolina Register of Deeds, and as further amended by a Fifth Amendment recorded in Book 4033, Page 823, in the Brunswick County, North Carolina Register of Deeds (the aforesaid Declaration, as amended by the aforesaid First Amendment, Second Amendment, Third Amendment, Fourth Amendment and Fifth Amendment, is hereafter referred to as the "Declaration").

B. Declarant is the successor to the rights of Thistle Downs as "Declarant" under the Declaration by virtue of that certain Assignment of Declarant Rights recorded in Book 3454, Page 462, in the Brunswick County, North Carolina Register of Deeds.

C. Pursuant to Article XVII, Section 15 of the Declaration, the "Declarant" thereunder has the unilateral right to amend the Declaration prior to the Turnover Date (as defined in the Declaration, which Turnover Date, as of the date of this Amendment, has not yet occurred).

D. As "Declarant" under the Declaration, Declarant desires to amend and restate this Declaration in accordance with the terms and provisions set forth in this Amended and Restated Declaration.

AGREEMENT

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) paid in hand and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Recitals. The recitals set forth above are incorporated herein by reference. The use of any capitalized term not otherwise defined herein shall have the meaning ascribed thereto in the Declaration.

2. Conflict. To the extent of any conflict between the provisions of the Declaration and the provisions of this Amendment, this Amendment shall supersede and control.

3. Final Agreement; Ratification. Except as specifically set forth herein, the Declaration remains unchanged and in full force and effect and Declarant, as “Declarant” under the Declaration, by its execution of this Amendment, hereby ratifies, affirms and approves the Declaration, as amended hereby.

STATEMENT OF BACKGROUND INFORMATION

A. Terms capitalized in this Declaration are defined in Article II hereof.

B. The Declarant is the owner of certain real property located in Brunswick County, North Carolina referred to in this Declaration as the “Initial Property” and defined below as the “Subdivision”.

C. The Initial Property and property which is hereinafter subject to this Declaration will be developed as a planned community to be known as “Thistle Downs at Thistle Golf Club” also referred to as “Thistle Golf Estates”.

D. A not-for-profit corporation incorporated under the laws of the State of North Carolina known as “Thistle Downs Property Owners Association, Inc.” has been incorporated for the purpose of administration of the Subdivision in accordance with the terms of this Declaration and other Governing Documents.

STATEMENT OF DECLARATION

Pursuant to The North Carolina Planned Community Act, N.C.G.S. Section 47F-1-101 et seq., the Declarant hereby declares that the Property shall be held, transferred, sold, conveyed, encumbered, leased, occupied and improved subject to the covenants, conditions, restrictions, easements, reservations, charges, liens and other provisions set forth in this Declaration, which will run with such property and be binding on all parties having any right, title or interest in any part of such property, their heirs, successors in title, and permitted assigns.

ARTICLE I

INTENT OF DECLARATION

Section 1. Preservation. The Declarant desires to provide for the preservation and enhancement of the property values and amenities in the Subdivision and for the maintenance of the Common Areas and other common facilities and amenities, if any. To this end, the Declarant desires to subject the Property to the covenants, restrictions, easements, reservations, charges and liens set forth in this Declaration, and to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the Property. The Declarant desires to provide a flexible and reasonable procedure for the overall development of the Property, and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property and the Common Areas and other common facilities and amenities, if any.

Section 2. Administration. The Declarant has deemed it desirable for the efficient preservation of the values of the Property, Common Areas and other common facilities and amenities, if any, in the Subdivision, to delegate and assign to the Association the powers of maintaining and administering the Subdivision, promulgating Rules and Regulations for the usage of Common Areas, administering and enforcing the covenants, conditions and restrictions in this Declaration and levying, collecting and disbursing the Assessments and other charges created under this Declaration.

ARTICLE II

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

a. “Amenity Center” shall mean and refer to the building or buildings and other improvements, including, but not limited to, a swimming pool, hot tub/spa, deck area and lanai, constructed or to be constructed for the exclusive use by the 143 Lot Owners within the Subdivision, located at the southwest corner of the Golf Club Parking Area.

b. “Architectural Control Committee” or “ACC” shall mean and refer to the Architectural Control Committee established under Article VI hereof.

c. “Architectural Design Criteria” shall mean and refer to the Architectural Design Criteria Policies and Procedures as approved and amended from time to time by the Declarant and shall include any architectural guidelines, policies and procedures adopted by the Declarant and/or Association and to be implemented by the Association and the ACC.

d. “Articles of Incorporation” or “Articles” shall mean and refer to the Articles of Incorporation of Thistle Downs Property Owners Association, Inc., as may be amended from time to time.

e. “Assessment” or “Assessments” shall mean and refer to those assessments, charges, fees and/or obligations set forth in Article X hereof.

f. “Association” shall mean and refer to Thistle Downs Property Owners Association, Inc., its successors and assigns.

g. “Board of Directors” or “Board” shall be the board of directors of the Association having its normal meaning under North Carolina corporate law.

h. “By-Laws” shall mean and refer to the By-Laws of the Association, as may be amended from time to time.

i. “Common Area” or “Common Areas” shall be an inclusive term referring to all real property or other property dedicated to, owned by or held by the Association, or intended by the Declarant to be devoted to the common use or enjoyment of the Owners or for preservation of the quality and values of the Properties, in accordance with this Declaration. The term

“Common Area” shall also include any personal property acquired by the Association if said property is so designated by the Association or the Declarant. Any land or personal property leased by the Association shall lose its character as Common Area upon the expiration of such lease. The Common Area may include, without limitation, private streets, entry features, guard house(s), gated entries, landscaping, hardscape, signage, roadways, walkways, easement areas, landscape lighting, parks, the Amenity Center, other recreational facilities and other amenities. The Declarant may declare real property to be Common Area by Plat dedication, deed or supplement or written notice to the Association which shall be filed in the corporate minute book. No portion of the golf club property shall be included in or shall be deemed to be Common Area.

j. “Common Expenses” shall mean and include the actual and estimated expenses incurred by the Association for maintenance, operation and other services required or authorized to be performed by the Association, including any reasonable reserves.

k. “Declarant” shall mean and refer to DGH Thistle, LLC, a North Carolina limited liability company, authorized to do business in the State of North Carolina, its successors and assigns.

l. “Declaration” shall mean and refer to this Declaration of Protective Covenants, Restrictions and Easements for Thistle Downs at Thistle Golf Club, as may be amended from time to time.

m. “First Mortgagee” shall mean and refer to any Institutional Lender who holds a first mortgage or deed of trust on a Lot.

n. “Golf Club” shall mean and refer to the Thistle Golf Club located in Brunswick County, North Carolina, that is in part adjacent to the Property.

o. “Golf Club Property” shall mean and refer to the golf course development owned, operated or managed by the Golf Club Property Owner and known as “Thistle Golf Club”, which includes, without limitation, twenty-seven (27) golf holes, golf practice facilities, clubhouse, maintenance and storage facilities, easements related recreational and social facilities constructed or to be constructed thereon.

p. “Golf Club Property Owner” or “Golf Club Owner” shall mean the owner of the Golf Club Property from time to time.

q. “Golf Residential Area” shall mean and refer to those Lots that are adjacent to any portion of the Golf Club Property.

r. “Governing Documents” shall mean and refer to this Declaration, the Articles and By-laws of the Association, the Rules and Regulations, the Architectural Design Criteria and such other documents as may be adopted by the Association, all as may be amended from time to time.

s. “Improvement(s)” shall mean and refer to all structures of any kind, including, without limitation, the Residences, any building, fence, patio, decks, wall, sign, swimming pool, cabana, gazebo, paving, grating, parking and building addition, alteration, screen

enclosure, sewer, drain, disposal system, decorative building, recreational facility, landscaping, exterior lighting or landscape device or object.

t. “Individual Assessments” shall mean and refer to Assessments levied in accordance with Article X of this Declaration.

u. “Initial Property” shall mean and refer to the real property legally described in attached Exhibit “A” and Exhibit “B” (Phase I and Phase II, respectively).

v. “Institutional Lender” shall mean and refer to a bank, life insurance company, federal or state savings and loan association, real estate or mortgage investment trust, qualified pension or lender generally recognized as an institutional lender.

w. “Lot” shall mean and refer to any plot of land intended for residential use, with delineated boundary lines appearing on any Plats with the exception of any Common Area shown thereon. In the event any Lot is increased or decreased in size by resubdivision, the same shall nevertheless be and remain a Lot for the purposes of this Declaration. This definition shall not imply, however, that a Lot may be subdivided if prohibited elsewhere in this Declaration. In the event that an Owner desires to legally combine two (2) or more adjoining Lots, the resulting combined Lots shall, from that date forward, be deemed to constitute two (2) Lots for purposes of this Declaration and shall continue to hold the right to two (2) votes and shall be responsible for two (2) assessments, one for each Lot.

x. “Maintenance and Access Agreement” shall mean the agreement, if any, which may be entered into between the Declarant and the Golf Club Owner regarding maintenance of and access to various portions of the Common Areas, as may be amended from time to time.

y. “Member” shall mean and refer to all those Owners who are members of the Association, as provided in Article IV hereof.

z. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee-simple title to any Lot(s), but shall not mean or refer to any mortgagee or subsequent holder of a mortgage or deed of trust, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure. Said term “Owner” shall also refer to the heirs, successors and assigns of any Owner.

aa. “Person” shall mean and refer to a natural person, a corporation, a partnership, a limited liability company, a trust, a trustee, or any other legal entity.

bb. “Phase I” shall mean and refer to the portion of the Subdivision described in attached Exhibit “A”, which includes portions of the Common Area.

cc. “Phase II” shall mean and refer to the portion of the Subdivision described in attached Exhibit “B”, which includes portions of the Common Area.

dd. “Plat” or “Plats” shall mean and refer to the map of Phase I filed in Map Cabinet 24, Page 360-364, Public Records of Brunswick County, North Carolina, and any other

maps or plats recorded in the Public Records of Brunswick County, North Carolina, affecting any or all of the Properties, as may be amended or supplemented from time to time.

ee. “Property” or “Properties” shall mean and refer to the Initial Property, together with such additional property as may be hereafter subjected to this Declaration by Supplemental Declaration(s) less such property as may be withdrawn by Supplemental Declaration(s).

ff. “Regular Assessment” shall mean and refer to Assessments levied in accordance with Article X of this Declaration.

gg. “Residence” shall mean and refer to the single-family residence constructed on a Lot.

hh. “Residential Areas Bounded by Water” shall mean and refer to all those residential Lots, Common Areas, tracts, or blocks of land intended for residential development located, or to be located by Subsequent Amendment, within the Subdivision having a boundary line which borders any lake, stream, canal, pond or other wetland within the Properties whether natural or man-made. This definition also applies to any residential Lot, Common Areas, tracts, or blocks of land intended for development, which border marshlands or wetlands.

ii. “Rules and Regulations” shall mean and refer to the Rules and Regulations adopted or to be adopted by the Board, as may be amended from time to time.

jj. “Setback” shall mean and refer to an area along the boundary of a Lot where no Improvement shall be permitted without the express written permission of the Declarant and the applicable governmental authorities.

kk. “Special Assessment” shall mean and refer to Assessments levied in accordance with Article X of this Declaration.

ll. “Subdivision” shall mean and refer to all property including Lots and Common Area, as are subject to this Declaration, and which are described in attached Exhibit “A” and Exhibit “B”, together with any additional phases that may be developed and specifically subjected to the provisions of this Declaration.

mm. “Subsequent Amendment” or “Supplemental Declaration” shall mean and refer to an amendment to this Declaration, which adds property to this Declaration and makes it subject to this Declaration or withdraws property from this Declaration. Such Subsequent Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land subjected by that Subsequent Amendment to the provisions of this Declaration.

nn. “Surface Water Management System” shall mean and refer to that portion of the Property consisting of swales, inlets, culverts, canals, lakes, streams, ponds, outfalls, storm drains and the like, and all connecting pipes and easements used in connection with the retention, drainage and control of surface water.

oo. “Turnover Date” shall mean and refer to that date the Declarant is no longer a Class B Member of the Association.

pp. “Use Right” shall mean and refer to a right that is extended to the tenants, guests or invitees of Lot Owners to use the amenities within the Property, including, but not limited to, the Amenity Center. Only Owners and their tenants, guests or invitees will have the right to use such amenities. Notwithstanding the foregoing, at such time as more than one hundred fifteen (115) Lots within the Subdivision are transferred to third party purchasers, the Association, with the approval of at least one hundred fifteen (115) of such third party Members of the Association may permit other parties to use the amenities within the Property. The Declarant will not have the right to grant parties other than Lot Owners and their tenants, guests or invitees with the right to use such amenities, except the Declarant may use such amenities for its sales and/or marketing activities prior to the Turnover Date. The Association shall have the right to assess various fees for use of such amenities including, but not limited to, use of the Amenity Center.

qq. “Use Right Holder” shall mean and refer to the holder of a Use Right extended or granted by the Association.

rr. “Voting Member” shall mean and refer to the Member who is designated to cast votes in accordance with the terms of the Governing Documents.

ARTICLE III

PROPERTY RIGHTS AND PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

Section 1. Initial Property. The real property which shall be held, transferred, sold, conveyed, given, donated, leased and/or occupied subject to this Declaration is described in attached Exhibit “A” and Exhibit “B”.

Section 2. Additions.

a. Prior to the Turnover Date, the Declarant shall have the exclusive right and power, in its sole and absolute discretion, to subject additional property to this Declaration from time to time by executing and recording in the public records a Supplemental Declaration specifying such additional property.

b. The Declarant may incorporate such additional land under the provisions hereof in any number of additional phases as it may desire, and may, in its discretion, change the character or nature of such future phases, including, but not limited to, changing the architectural theme, building materials, elevations, and minimum square footage, or Architectural Design Criteria requirements for Residences.

c. Upon the Declarant’s election to subject additional property to this Declaration, all of such property shall be as fully covered hereby as if a part of the Initial Property. All such property shall be subject to all of the terms and provisions of this Declaration, together with such additional restrictions and obligations as the Declarant may impose on the property being submitted to the provisions of this Declaration by such Supplemental Declaration(s).

d. The Declarant shall be under no obligation to develop additional phases and no property shall be deemed a part of any scheme of development until actually subjected to the terms and provisions of this Declaration. The right to add future phases shall terminate upon the Turnover Date.

Section 3. Withdrawal. Prior to the Turnover Date, the Declarant shall have the exclusive right and power, in its sole and absolute discretion, to withdraw certain portions of the Property from the provisions of this Declaration for any reason by executing and recording a Subsequent Amendment(s) specifying such withdrawal.

Section 4. Legal Descriptions. Prior to the Turnover Date, the Declarant may execute and record an amendment(s) to this Declaration changing the description of the Property.

Section 5. Enjoyment of Common Areas. Every Owner of a Lot shall have a right and easement of enjoyment in and to the Common Area, subject to the Governing Documents. Any Owner of a Lot may delegate his or her right of enjoyment to the members of his or her family, lessees and social invitees, as applicable, subject to the Governing Documents.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is an Owner of any Lot, which is subjected by this Declaration to Assessment by the Association, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any such Lot, except as otherwise provided in this Declaration or in the other Governing Documents.

Section 2. Voting Rights.

a. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners other than the Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 1 above. When more than one person holds such interest or interests in any Lot, the vote attributable to such Lot shall be exercised as such persons mutually determine, but in no event shall more than one (1) vote be cast with respect to any such Lot. When a purchaser of an individual Lot or Lots takes title thereto from the Declarant, such purchaser automatically becomes a Class A Member. The Owner of more than one (1) Lot will be entitled to one (1) vote for each Lot owned by such Owner even if the Lots are combined in accordance with the terms of this Declaration.

Class B. The sole Class B Member shall be the Declarant. The Class B Member shall be entitled to total votes in an amount equal to twice the number of the Class A votes plus one. The Class B membership shall cease and become converted to Class A membership upon the happening of the earlier to occur of the following:

(a) conveyance by the Declarant of all Lots subject to, or which may become subject to, this Declaration; or

(b) December 31, 2035; or

(c) when, in its discretion, the Declarant so determines.

b. When the Class B membership converts to a Class A membership, the Class B Member shall be deemed to be a Class A Member and shall be entitled to one (1) vote for each Lot owned in the manner provided above.

c. Additional terms and provisions regarding voting rights and membership in the Association are set forth in the By-Laws.

ARTICLE V

USE RESTRICTIONS

The Lots shall be used for residential purposes only, subject to the use restrictions hereinafter set forth. Any Supplemental Declaration may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce standards imposed by this Declaration and standards contained in any such Supplemental Declaration.

Section 1. Conformity and Approval of Structures. No Improvement shall be placed or altered on any Lot except in accordance with the provisions of this Declaration and the other Governing Documents.

Section 2. Subdivision of Lot. No Lot shall be subdivided except as hereinafter provided and no Residence or other Improvements shall be erected so as to extend over or across any of the Setbacks except as hereinafter provided.

Section 3. Increased Size of Lots. A Lot or Lots may only be subdivided provided the effect is to increase the size of both of the adjoining Lots. In such cases, the Declarant may alter the building lines. Should the Owner or Owners of any Lots and/or portions of Lots which have been combined for a single building site subsequently wish to revert to the original Plat of Subdivision, or make any other combination which would not be in violation of this restriction, such may be done only if the written consent of the Declarant is obtained or with the written consent of the Association if after the Turnover Date. In such instances, the adjoining Lot Owners, or other Owners in the Subdivision do not have the right to review, approve or interfere with such Lot rearrangement, as such rights shall be exclusively that of the Declarant, its successor or assign, but the purchaser of any other Lot in the Subdivision does not, by virtue of his status as a purchaser, become any such successor or assign.

Section 4. Alteration of Setback Lines. Where because of size, natural terrain, or any other reason in the opinion of the Declarant, it should be in the best interest of the development of the Subdivision that the Setback lines of any Lot be altered or changed, the Declarant reserves unto itself, its successors or assigns, the right to change said Setback lines to meet such condition. The

Declarant specifically reserves the right to transfer and assign the rights of approval set forth in Section 3 and Section 4 of this Article to the Association. Alteration of Setback lines of Lots adjoining the Golf Club Property shall also require the approval of the then owner of the Golf Club.

Section 5. Completion of Improvements. The exterior of the Residence and other Improvements constructed upon any Lot must be completed within sixteen (16) months after commencement of construction, except where such completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergencies or natural calamities. No Residence under initial construction shall be occupied until construction is completed, all necessary approvals of any governmental authorities have been obtained and the Architectural Control Committee has approved the improvement upon final inspection. Notwithstanding the foregoing, Lot Owners are not obligated to commence construction of a residence within any time period after purchase of a Lot.

Section 6. Residential Use of Lots. All Lots shall be used for residential purposes exclusively except for limited home office uses permitted under this Article. No timesharing, interval ownership or other related ownership scheme where the right to exclusive use rotates among multiple owners or members of any such program shall be permitted. No separate storage, detached garages, gazebos or other outbuilding shall be permitted without the prior written approval of the ACC. All storage rooms must be attached to, form a part of and conform to the architectural scheme and appearance of the Residence and shall be approved by the ACC. In addition, no leasing or rental of any residence shall be permitted having a duration of less than twelve (12) months nor shall less than the entirety of any residence be leased. The Declarant or its assignee may, however, maintain a sales office, models, guesthouse for marketing purposes, use a house or residence for its business personnel and agents' use on a short term basis, and construction office. Except as to residences constructed and/or offered for sale by Declarant or a contractor engaged by Declarant for sale of Lot/home packages, no residence shall be constructed upon any Lot for purposes other than for the Owner to reside therein; construction of a residence for speculation and/or with the intent to sell upon completion without Owner taking occupancy, shall be prohibited within the Subdivision.

Section 7. Maintenance of Lots. It shall be the responsibility of each Lot Owner to prevent any unclean, unsightly, or unkempt condition of the Residence, grounds, landscaping and other Improvements on each Lot. Each Owner shall be responsible for the maintenance of such Owner's Lot and shall keep the underbrush, lawn and weeds mowed. Such maintenance obligation shall also extend to the portion of any Common Area, sidewalks, light posts and/or public street or right-of-way located between the boundary lines of each Lot and any pavement within such street or right of way, and to the portion of any Common Area located between the boundary line of each Lot and the shore of any lake, pond, stream or other body of water adjacent to or touching such Lot.

Section 8. Nuisances. No noxious, unlawful or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or a nuisance to the Subdivision, the Golf Club, other Lot Owners within the Subdivision. No plants, poultry, animals (other than household pets), devices or things of any sort, the normal activities or existence of which are in any way noxious, dangerous, unsightly,

unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the Subdivision or the Golf Club shall be placed, kept or maintained on any Lot. Without limiting the foregoing, exterior lighting may not be installed on any Lot so as to illuminate any portion of a neighboring Lot or to shine into any window or otherwise unreasonably reflect toward or upon a Residence located on another Lot.

Section 9. Exclusion of Above Ground Utilities. All electrical service, telephone, cable and other utilities shall be placed underground and no such utilities shall be placed overhead. No exposed or exterior radio or television transmission or receiving antenna shall be erected, placed or maintained on any part of a Lot without the consent of the Association. Normal service pedestals and boxes used in conjunction with such underground utilities shall be permitted within the Subdivision. Overhead utilities shall be permitted during the construction period only and until the utility companies can place them underground. Satellite dish” antennas and similar equipment shall be governed in accordance with applicable governmental regulations and as further provided in the Architectural Design Criteria.

Section 10. Signs. No billboards or advertising signs of any character shall be erected, placed, permitted or maintained on any Lot or Improvement thereon except as herein expressly permitted. No “for rent” or similar signs shall be permitted without the prior written consent of the ACC. All “for sale” signs shall conform with the Architectural Design Criteria, and will be subject to the ACC’s approval prior to posting on any Lot. In addition, it shall be permissible for the Association to have sign(s) located on the Common Area, if the design, size and location of such sign is approved by the Declarant. No other sign of any kind or design shall be allowed. The Declarant reserves the right to erect temporary or permanent signs on Lots and Common Area identifying and/or advertising the Subdivision, Lots or houses offered by Developer or its preferred builder.

Section 11. Prohibition Against Business Activity. No business activity, including but not limited to, a rooming house, boarding house, gift shop, antique shop, landscape business, professional office or beauty shop or the like, or any trade of any kind whatsoever (in which clients or members of the public come to any Lot or any significant business traffic is generated in the Subdivision) shall be conducted on any Lot or any portion of the Common Areas. However, an Owner or occupant residing in a Lot may conduct “home business” activities within the Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable from outside the Lot; (ii) the business activity conforms to all governmental requirements; (iii) the business activity does not involve additional traffic or any other impact on the Property or the Common Areas (including, but not limited to, the guard gate(s) and gated entries); and (iv) the business activity is consistent with the character of the Property. This Section shall not apply to any activity conducted by the Declarant with respect to its development, marketing and sale, resale or rental of the Properties or its use of any Lots which it owns, as to the Golf Club.

Section 12. Mining and Drilling. No derrick or other structure designed for use in boring for water, oil, natural gas or any other mineral shall be erected, placed or permitted upon any Lot, nor shall any oil, natural gas, petroleum, asphalt or hydrocarbon products or materials of any kind be produced or extracted from any Lot.

Section 13. Garbage Disposal. Each Lot Owner shall provide garbage receptacles or similar facilities in accordance with reasonable standards established by the Association, or a roll-out garbage rack of the type approved by the Association, which shall be visible from the streets on garbage pickup days only. No composting, garbage, or trash incinerator shall be permitted upon a Lot. No burning, burying or other disposal of garbage, mulch or landscape cuttings on any Lot or within the Subdivision shall be permitted.

Section 14. Temporary Structures. No structure of a nonpermanent character shall be placed upon any Lot at any time; provided, however, this prohibition shall not apply to shelters used by the contractors during construction of the Residence. Any such temporary shelters may not, at any time, be used for a residence or permitted to remain on the Lot after completion of construction.

Section 15. Other Structures. No home, tent (other than small overnight tents used by children which remain in place for less than 24 hours), barn, shed, shack, trailer, mobile home, tree house, above ground pool, therapy pool, hot tub, spa or other similar out-building or structure shall be placed on any Lot at any time, either temporarily or permanently, except as provided in Section 14 above. Above ground swimming pools are not permitted.

Section 16. Clotheslines. No clotheslines or drying yards shall be permitted upon any Lot.

Section 17. Parking. Adequate off-street parking shall be provided by the Lot Owner for the parking of automobiles or other vehicles owned by said Owner and said Owner agrees not to park automobiles or other vehicles on the streets or Common Area in the Subdivision. No travel trailers or mobile homes, vans, campers or other habitable motor vehicles of any kind, whether self-propelled or not, school buses, trucks or commercial vehicles, boat trailers or boats shall be kept, stored or parked over twelve (12) hours, either on any Common Area, streets, or any Lot, except within enclosed approved garages. No parking on lawns shall be permitted. No overnight on-street parking shall be permitted. All boats, jet-skis, wave runners, golf carts and other vehicles used for similar types of recreational purposes must be parked in a garage at all times when not in use, and parking of the aforementioned types of vehicles in driveways or in the streets is not permitted. The Association reserves the right to not register certain vehicles, such as all-terrain vehicles, "dirt" motorbikes and similar vehicles, for operation within the Properties, and such vehicles shall not be operated within the Properties and may be stored only in garages. All such unregistered vehicles must be transported independently in and out of the Properties.

Section 18. Sewer System. No surface toilets are permitted in the Subdivision. The Owner shall connect its sanitary sewer to the sanitary sewer system constructed and owned by South Brunswick Water and Sewer Authority. The Owner assumes all responsibility for obtaining the necessary permits for connecting to said sanitary sewer and water treatment system and shall pay all fees and costs associated therewith.

Section 19. Firearms and Fireworks. No firearms or fireworks of any variety shall be discharged upon any Lot, the Common Area or the Golf Club. The term "firearms" shall include, without limitation, guns, "B-B" guns, air soft guns, slingshots, bows and arrows, and pellet guns.

Notwithstanding, the Golf Club shall be permitted to use and or have fireworks event performed as part of its Golf Course operation on special occasions, events and holidays.

Section 20. Animals and Pets. No animals, wildlife, livestock, reptiles, or poultry of any kind shall be raised, bred, or kept on any portion of the Subdivision, except that dogs, cats, or other usual and common household pets, not to exceed a total of three (3) per Residence may be permitted in a Residence. All pets shall be leashed when on the Common Area. Those pets which, in the sole discretion of the Association, endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots, the Golf Club Owner or the owner of any portion of the Subdivision shall be removed upon request of the Association. No pets shall be kept, bred, or maintained for any commercial purpose. Pets shall only be permitted on the Common Area designated by the Association. All persons bringing a pet onto the Common Area or any other portion of the Property shall be responsible for immediately removing any solid waste of said pet.

Section 21. Driveways and Mailboxes. All driveways, driveway coatings, and mailboxes shall be constructed and maintained in the style established or approved by the Declarant or the ACC. All culverts installed within driveways shall be of a type and quality approved by the Declarant or the ACC and the grade of same shall be set or approved by the Declarant or the ACC.

Section 22. Irrigation.

a. The Declarant hereby restricts the use of any individual sprinkler systems or irrigation systems to be utilized by any Lot Owner unless such system is specifically approved by the Declarant (or the Association after the Turnover Date) and by the then owner of the Golf Club. As of the date of this Declaration, the Declarant and the owner of the Golf Club agree that individual shallow wells will be permitted provided:

(i) The depth of such wells will be as established by the ACC from time to time and must be in compliance with the laws and regulations of the applicable governmental authorities; and

(ii) the well installed by such Lot Owner shall include a filter with specifications acceptable to the Declarant and the then owner of the Golf Club.

b. Thus, the Lot Owners may be able to avoid the more costly use of public water for the landscape irrigation for their Lot; however, the Declarant and/or the then owner of the Golf Club may, at a later date, change their consent for individual wells for Lot Owners who have not already had their plans approved for construction of a Residence as of the date of such change of policy. Notwithstanding the foregoing, the Lot Owners must comply with the applicable governmental laws and regulations and must receive and maintain all approvals and permits from the applicable governmental authorities. Lot Owners should be aware that any such approvals and permits may be revoked by the applicable governmental authorities at any time.

c. Notwithstanding the foregoing, no Lot Owner within the Subdivision shall draw upon water from creeks, streams, rivers, lakes, ponds, wetlands, canals or other surface waters within or adjacent to the Subdivision or the Golf Club Property, except such indirect access

to such sources as may be available from the aforementioned shallow wells whose source of water may be indirectly related to such surface bodies of water.

Section 23. Lakes. No lake area or other bodies of water within the Subdivision or the Golf Club shall be used for swimming, boating or diving, nor shall the use of any personal floatation devices, jet skis or other such items be permitted on any such lake area. Fishing by Owners shall be permitted subject to the Rules and Regulations that may be adopted by the Association from time to time. No piers, docks or barriers shall be constructed on any portion of lakes, streams or ponds, nor attached to the shoreline or banks thereof, except those that may be constructed by the Declarant. No Lot Owner may use or permit to be used any water from any lakes or other bodies of water for irrigation of such Owner's Lot. Neither the Declarant, the Association nor the Golf Club Owner shall be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within or adjoining the Subdivision. Nothing shall be done which disturbs or potentially disturbs lakes, shorelines, wetlands or other bodies of water within or adjoining the Subdivision or the Golf Club in any manner unless approved by the proper regulatory authority. No dredging or filling activities will be permitted by any Owner on any Lot or on any area adjacent to any Lot. Any erosion problems with respect to a Lot will be repaired and replaced by the Association and charged as an assessment to the applicable Owner or Owners.

Section 24. Garages, Carports and Outbuildings. No garage or carport shall be permitted on any Lot unless approved by the ACC. No garage may be converted to another use without prior approval of the Association.

Section 25. Sight Distance at Roadside and Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, structure, hedge, or shrub planting shall be placed or permitted to remain within the front setback, where it could create a traffic or sight problem in the opinion of the ACC.

Section 26. Drainage. No Owner shall channel or direct drainage water onto a neighboring Lot, Common Area or the Golf Club except in accordance with a drainage plan approved by the Declarant and in the case of drainage onto or towards the Golf Club, the approval of the Golf Club Owner.

Section 27. Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of a Lot. Exterior sculptures, fountains, flags, and similar items are subject to the Declarant's or ACC's prior approval; provided, however, that nothing contained herein shall prohibit the appropriate display of the American flag subject to the Rules and Regulations that may be adopted by the Association from time to time.

Section 28. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, as determined by the Declarant or the ACC. Solar panels shall not be installed on the front elevation of a home.

Section 29. Landscaping. Lot clearing, grading and installation and removal of landscaping and trees shall be subject to the prior approval of the ACC and be completed in conformity with the then applicable Architectural Control Committee Design Criteria Policy and Procedures. As the provisions contained herein are for the preservation of the aesthetics and privacy of the Subdivision, in the event of the destruction or removal of any tree or landscaping, the Owner of the Lot upon which such tree, shrub, or landscaping was located will cause same to be replaced or restored with a comparable size and type of tree or landscaping.

Section 30. Golf Club Nuisance. No Person shall engage in any activity whatsoever which shall interfere with the use and enjoyment of the Golf Club. No persons shall be permitted to jog or walk along the golf cart paths or any other portion of the Golf Club unless the prior approval of the Golf Club Property Owner has been obtained.

Section 31. On-Site Fuel Storage. No on-site storage of gasoline or other fuels shall be permitted on any Lot except that up to five (5) gallons of fuel may be stored on any one Lot for emergency purposes and operation of gas grills, lawn mowers and similar tools or equipment. This section does not apply to liquid propane tanks which shall be located below ground.

Section 32. Play Equipment, Etc. All bicycles, tricycles, scooters, skateboards and other play equipment, wading pools, baby strollers and similar items shall be stored so as not to be visible from any street, property adjacent to a Lot or the Golf Club Property. No such item shall be allowed to remain on the Common Area or on Lots so as to be visible from adjacent property or the Golf Club Property when not in use. Swing sets, basketball hoops and backboards and similar sporting or playground equipment may be erected on Lots provided same is installed and maintained in accordance with standards adopted by the ACC.

Section 33. Mechanical Equipment. Privacy screens, as required by the Architectural Design Criteria, shall be placed around all outside Heating, Ventilating, and Air Conditioning (HVAC) equipment, including, but not limited to, heat pumps. All HVAC equipment will be placed within the applicable setback for the Lot. ACC approval is required prior to placement of screening. Generators shall be screened with vegetative screening providing full opacity from street view.

Section 34. Occupants Bound. All provisions of the Governing Documents shall also apply to all occupants, guests, invitees and lessees of any Owner. Every Owner shall cause his or her occupants to comply with the Governing Documents, and shall be responsible for all violations and losses to the Properties caused by such occupants, notwithstanding the fact such occupants are fully liable and may be sanctioned for any violation.

Section 35. Fences, Walls and Animal Pens. Any fences, walls or animal pens sought to be constructed on any Lot shall require the written approval of the Association or the ACC as to location, size, composition, configuration, exterior materials, color and other similar matters, which approval may be withheld for purely aesthetic considerations. No hedge, shrubbery or vegetation of any kind shall be grown or placed in the form of a fence on any Lot or Lots across the front street line of the said Lot or Lots or on either of the side lines of the said Lot or Lots until such time as the ACC approves same.

Section 36. Hazardous Materials. Hazardous materials shall only be stored on the Lots if reasonably necessary to the maintenance thereof. All hazardous materials shall be stored, utilized and accounted for in accordance with all governmental requirements. Owners shall be responsible for the maintenance, clean-up, damages, storage, handling and disposal of any hazardous materials on their property and any contamination therefrom.

Section 37. Private Golf Carts. Private golf carts may be used within the Property only by those members of the Golf Club, the Golf Club Owner, the Declarant, Lot/house sales representatives appointed by Declarant, or operators who are permitted to do so by the Golf Club's rules and other membership documents. The use of private golf carts on streets and roadways is prohibited. Use of golf carts shall be restricted to licensed drivers. All use of privately owned golf carts on the Property must be in accordance with the Rules and Regulations that may be adopted by the Association from time to time and the provisions of the Golf Club's membership documents pertaining to private golf carts, as those provisions may be amended from time to time. Those provisions may include limitations on the categories of members who are allowed to use private golf carts, a requirement that all golf carts must be a standard color, style and appearance approved by the Golf Club, maintenance standards, insurance requirements and other regulations determined by the Golf Club from time to time.

Section 38. Rules and Regulations. The use of the Common Area and other property within the Subdivision by an Owner or Owners, and all other parties authorized to use same, shall at all times be subject to the Rules and Regulations as may be prescribed and established by the Association from time to time.

Section 39. Setbacks. Improvements upon all Lots shall be subject to established setbacks as referenced on the respective plats within the Subdivision and/or as set forth in the Architectural Design Criteria.

Section 40. Impervious Surface/Building Size. Minimum and maximum square footage of homes and impervious surface on all Lots shall be established by the ACC and as set forth in the Architectural Design Criteria. Subsequent to January 1, 2014, with respect to new construction on any previously vacant lot, the maximum impervious surface area shall not exceed 8,000 square feet. The term "Impervious Area" shall mean any built upon area constructed within a Lot and for such Lot shall include any built upon area between the front Lot line and that portion of the right-of-way between the front Lot line and the edge of the pavement. "Built upon area" includes, but is not limited to structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised open wood decking or the water surface of swimming pools.

Section 41. Stormwater System. In accordance with Title 15 NCAC 2H.1000 and S.L. 2006-246, the Stormwater Management Regulations, deed restrictions and protective covenants are required for High Density Residential Subdivisions where Lot(s) will be subdivided and sold and runoff will be treated in an engineered stormwater control facility. Deed restrictions and protective covenants are necessary to ensure that the development maintains a "built-upon" area consistent with the design criteria used to size the stormwater control facility.

The following deed restrictions and covenants shall apply to all Lots within the Subdivision:

(i) The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SW 980820, as issued by the Division of Energy, Minerals and Land Resources under the Stormwater Management Regulations.

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

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

(iv) The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Energy, Minerals and Land Resources.

(v) Alteration of the drainage plan may not take place without the concurrence of the Division of Energy, Minerals and Land Resources.

(vi) The maximum allowable built-upon area per Lot is 8,000 square feet. This allotted amount includes any built-upon area constructed within the Lot property boundaries, and that portion of the right-of-way between the front Lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.

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

(vii) Each Lot will maintain a 30' foot wide vegetated buffer between all impervious areas and surface waters of the State (50 foot for projects located in the 20 coastal counties).

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

The covenants pertaining to stormwater regulations may not be changed or deleted without concurrence of the State.

ARTICLE VI

ARCHITECTURAL AND CONSTRUCTION STANDARDS AND CONTROL

Section 1. General. All Improvements to be located on a Lot of every type and description shall be constructed, placed or erected in accordance with the provisions of this Article VI together with other applicable provisions of this Declaration and the other Governing Documents.

Section 2. Size of Residences and Lot Coverage. Residences to be constructed upon any Lot shall have a minimum square footage of enclosed heated dwelling areas, exclusive of porches, decks and garages, as set forth in the Architectural Design Criteria. For purposes of this Declaration, a single level or one (1) story Residence shall be a Residence having living areas on only one (1) level while a multi-level or two (2) story dwelling shall be a Residence having living areas located on more than one (1) level.

Section 3. Setbacks. No Improvements shall be erected so as to extend over or across any of the Setback lines. Building Setback areas, over which no Residence or other building or aboveground structure may be erected, shall be established and modified for each Lot by the Declarant. The Declarant and the ACC shall have the right and privilege to grant variances for any and/or all of the building Setbacks on any and/or all of the Lots, subject to the jurisdiction of the appropriate governmental authorities. Each Residence or other Improvement which shall be erected on any Lot shall be situated on such Lot in accordance with the building and setback requirements of any applicable zoning ordinances and in conformity with the Architectural Control Committee Design Criteria Policies and Procedures.

Section 4. Authority. The Board of Directors (or committees established by the Association) shall have the authority and standing on behalf of the Association to enforce the terms and provisions of this Article. The Declarant shall have the right to grant exemptions from the approvals required under this Article VI to any person or entity as to new construction on any Lot, including the removal of trees as necessary for the construction and landscaping of Residences.

Section 5. Architectural and Construction Standards and Control. The Declarant has established Architectural Design Criteria Policies and Procedures and the Architectural Control Committee as authorized pursuant this Declaration and shall have sole and full authority to amend the Architectural Design Criteria. Such Architectural Design Criteria Policies and Procedures establish the scope, specification and restrictions applicable to the Lots within the Subdivision to which all Owners shall be subject and required to comply. Prior to submittal to the ACC, Owners shall obtain the then current Architectural Design Criteria from the ACC and any improvements upon any Lot shall conform in all respects with and to the then applicable Architectural Design Criteria, shall be subject to the Governing Documents and shall require ACC approval, as otherwise set forth in this Declaration. Those specific modifications referenced in the Fifth Amendment to Declaration of Protective Covenants, Restrictions and Easements for Thistle Downs at Thistle Golf Club, have been incorporated in and to the Architectural Design Criteria

and may be modified and amended from time to time, without further amendment of the Declaration.

Section 6. Improvements Upon Lots.

a. Plans and specifications showing the nature, kind, shape, color, size, materials and location of all Improvements and any such modifications, additions, or alterations thereto shall be submitted to the ACC for approval as set forth in the Architectural Design Criteria Policies and Procedures. No permission or approval shall be required to repaint in accordance with any originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his/her Residence or to paint the interior of his/her Residence any color desired subject to such Owner receiving the necessary approvals from the applicable governmental authorities.

b. No Residence or other Improvements, and no change in topography, landscaping or any other matter originally approved by the ACC shall be commenced, erected or maintained upon a Lot nor shall any exterior addition to or change be made to a Lot until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been approved by the ACC in writing. The right of approval herein reserved and granted shall include, without limitation, the right to designate or re-designate which Lot line shall be the "front" Lot line in the case where a Lot is bordered by more than one street.

c. In the event the ACC fails to approve or disapprove any request within sixty (60) days after complete plans and specifications have been submitted to it, the same shall be deemed approved; provided, however, no such failure to act shall be deemed an approval of any matters specifically prohibited by any other provision of this Declaration. The ACC may refuse approval of plans, specification and plot plans or any of them based on any grounds, including purely aesthetic grounds. All Lot Owners acknowledge that the theme and architectural style of the "Thistle Golf Estates" is to be consistent with the style and standard established by the Declarant and the Governing Documents. The ACC and Declarant shall have authority to determine such compliance.

d. All plans, specifications, drawings and other information submitted to the ACC for the initial construction on a Lot shall contain a drainage plan which shall be consistent with the master drainage plan for the entire Property.

e. As part of the application process, a complete digital set of plans and specifications prepared by an architect, designer or other person found to be qualified by the ACC shall be submitted for approval by written application on such form as may be provided or required by the ACC. In the event the information submitted to the ACC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

f. Unless specifically accepted by the ACC, all improvements for which approval of the ACC is required under this Declaration shall be completed within a reasonable

time from the date of commencement of said improvements (not to exceed eighteen (18) months) or within the time set by the ACC at the time that the approval is granted.

g. No building or other structure shall be erected or shall be allowed to remain which violates any of the covenants, conditions or restrictions contained in this Declaration or other Governing Documents, or which violates any applicable zoning or building ordinance or regulation. No Residence may be occupied until a “certificate of occupancy” has been issued by the applicable governmental authorities.

h. A majority of the ACC may take any action to the Board and may designate a representative to act for it. In the event of death, disability or resignation of any member of the ACC, the Board shall designate a successor.

i. In each instance where an Improvement has been erected, or the construction thereof is substantially advanced, in such a manner that the same violates the restrictions contained in this Declaration, the Architectural Design Criteria or any other covenants which the ACC has the power to enforce, or in such a manner that the same encroaches on any easement area or Setback line, the ACC reserves the right, in its sole discretion, to require removal and restoration of the Lot to its original condition or to grant an exception to permit or condition the violation, so long as the ACC, in the exercise of its sole discretion, determines that the release or exception will not materially and adversely affect the health, safety and appearance of the Properties.

j. The Declarant and/or the ACC shall maintain an active list of approved builders permitted to construct homes (or other improvements) within the Subdivision. Lot Owners must utilize a builder/contractor licensed in the State of North Carolina and currently designated as an approved builder by the ACC.

Section 7. Disclaimer as to ACC Approval. Plans and specifications are not reviewed for engineering or structural design or quality of materials, and by approving such plans and specifications neither the ACC, the members thereof, nor the Declarant, the Board of Directors, nor the Association assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications nor for any actions of any builder in connection therewith. Neither the Declarant, the Association, the ACC, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval of any such plans or specifications. Every Owner, for such Owner and for all parties claimed by or through such Owner agrees that such parties will not bring any action or suit against the Declarant, the Association, the ACC, the Board, or the officers, directors, members, employees, and agents of any of them to recover any such damages and hereby releases, quit-claims, all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

Section 8. Certification of Compliance.

a. Upon completion of the installation, construction or alteration of any Improvement in accordance with plans and specifications approved by the ACC, the ACC, after satisfactory inspection, shall issue a Certificate of Compliance, identifying such Improvements and the Lot upon which such Improvement is placed, and stating that the plans and specifications have been approved and that to the best of its actual knowledge such Improvement complies with such plans and specifications. A copy of said Certificate shall be filed with the ACC.

b. Any Certificate of Compliance issued in accordance with the provisions of this Section shall be conclusive evidence of the facts therein stated and shall be conclusive evidence that such Improvements comply with all the requirements of this Article; provided, however, that the Certificate shall in no way be construed to certify the acceptability, sufficiency or approval by the ACC of the actual construction, or the quality of the workmanship, or to represent or warrant to anyone the value, quality, function or operation of the improvements or of any construction, workmanship, engineering, materials or equipment.

c. The issuance of the Certificate shall in no way be construed to certify to any party that the subject Improvements have been built in accordance with any applicable laws, rules or regulations.

d. Prior to closing upon acquisition of any Lot (excepting conveyances from the Declarant), each Lot shall obtain an Estoppel Certification from the Association confirming that such Lot and any Improvements thereon are in compliance with the Architectural Design Criteria and have obtained the Certificate of Compliance from the ACC. If any Lot shall be acquired without issuance of such Estoppel Certification, the party receiving title and all successors shall remain liable and responsible for any requirements determined necessary by the ACC to bring such Lot into compliance.

Section 9. No Waiver of Future Approvals. The approval of the ACC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ACC, shall not be deemed to constitute a waiver of any right to withhold approval or provide consent with respect to any similar proposals, plans and specifications, drawings, or matter whatever subsequently or additionally submitted for approval or consent by any Lot Owner.

Section 10. Variance. The ACC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may be granted when unique circumstances dictate and no variance shall be effective unless in writing.

Section 11. Golf Course. As part of the approval process, the ACC shall consider the aesthetic effect of all improvements proposed for each Lot (including lot clearance and landscaping) that borders the Golf Club Property or can be seen from the Golf Club Property.

Section 12. The Golf Club Property. Anything in the foregoing to the contrary notwithstanding, the ACC and this Association shall have no control or authority with respect to

the design, improvements, development or construction of the Golf Club Property including, but not limited to the clubhouse and all maintenance and other accessory buildings.

Section 13. Appeal. In the event a Lot Owner disagrees with a decision made by the ACC, such Lot Owner may appeal such decision to the Board. Any such appeal shall be made pursuant to procedures adopted from time to time by the Board.

ARTICLE VII

EXTERIOR MAINTENANCE AND REASONABLE ACCESS

Section 1. Exterior Maintenance.

a. The Owner of a Lot shall maintain the Residence and other Improvements, including, but not limited to, walls, trim, paint, windows, roofs, screened-in porches and other exterior surfaces and shall maintain the grounds on each Lot at all times in a neat and attractive manner. Lots shall be maintained by Owners consistent with the exterior specifications and landscaping approved by the ACC.

b. Upon the Owner's failure to maintain as provided in Section 1.a. above, the Declarant or the Association may, after giving the Owner ten (10) days' prior written notice sent to the last known address of the Owner, or to the address of the Residence, have the grass, weeds, shrubs and vegetation cut when and as often as the same is necessary in its judgment, and have dead or diseased trees, shrubs, vegetation or dangerously leaning trees or limbs removed from such Lot, and replaced, and may have any portion of the Lot resodded, landscaped or relandscaped. The Declarant's or the Association's access to a Lot to perform such maintenance shall not be deemed a trespass.

c. The Declarant or the Association may likewise, after giving the Owner ten (10) days' prior written notice sent as aforesaid, enter upon such Lot(s) to remove any trash, debris or garbage which has collected on said Lot(s), without such entrance and removal being deemed a trespass, all at the expense of the Owner of said Lot.

d. Upon the Owner's failure to maintain the exterior of the Residence or other structural Improvements in good repair and appearance, the Association may after giving the Owner thirty (30) days' prior written notice sent as aforesaid, enter upon such Lot to make repairs and improve the appearance in a reasonable and workmanlike manner, without such entrance being deemed a trespass, all at the expense of the Owner of said Lot.

e. Any costs and expenses of the Association and the Declarant incurred under this Section shall be immediately due and owing from the Owner of such Lot, shall be a lien and charge against the Lot and assessed as an Individual Assessment, and such Lot Owner shall be personally obligated to pay such costs and expenses.

Section 2. Access at Reasonable Hours. For the purpose of performing the Association's functions under this Article or any other Article of this Declaration, and to make necessary surveys in connection therewith, the Association or the Declarant, by its duly authorized

agent and employees, shall have the right to enter upon any Lot at reasonable hours, on any day except Sundays and holidays, on reasonable prior verbal or written notice.

ARTICLE VIII

EASEMENTS

Section 1. Emergency and Service Easement. A general easement is hereby granted over the Properties to all police, sheriff, security, fire protection, ambulance, and all other similar emergency agencies or persons and to all trash collection and school transportation personnel to enter upon all streets and property in the Subdivision in the proper performance of their duties.

Section 2. Maintenance Easement. An easement is hereby reserved to the Declarant, and granted to the Association, and any manager, and their respective officers, agents, employees, and assigns upon, across, over, in, and under the Properties and a right to make such use of the Properties as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform. The Association shall not unreasonably interfere with the rights of the Owners in the use of this easement.

Section 3. Easements on Plats. All easements for utility purposes, drainage purposes, and any other purposes depicted or described on any Plats of any portions of the Properties or other instruments, recorded in the Public Records of Brunswick County, North Carolina, are hereby granted to the Association, and any other parties named or described on the recorded plats, to be used for their intended purposes. All such easements shall be non-exclusive unless otherwise set forth on the recorded plat or plats or recorded instrument.

Section 4. Declarant's Rights Incident to Construction. The Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under, and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Properties; provided, however, no such rights shall be exercised by the Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access to a Lot by any Owner or such Owner's family, tenants, employees, guests, or invitees.

Section 5. Appurtenant Easements. The Declarant grants to all Owners, their guests, lessees and invitees, a perpetual non-exclusive easement for ingress and egress over, across and through and for the use and enjoyment of all Common Area, such use and enjoyment to be shared in common with the other Owners, their guests, lessees and invitees as well as the guests, lessees and invitees of the Declarant, subject to the Governing Documents.

Section 6. Utility Easements. The Declarant reserves to itself, its successors or assigns, and grants to any public or private utility or governmental or quasi-governmental authority providing utility service within the Property, a perpetual, non-exclusive easement upon, over, under and across the Property for the purpose of maintaining, installing, repairing, altering and operating sewer lines, water lines, waterworks, sewer works, force mains, lift stations, water mains, sewer mains, water distribution systems, sewage disposal systems, effluent disposal systems, pipes, wires, syphons, valves, gates, pipelines, cable television service, security or alarm

system and all machinery and apparatus appurtenant thereto to all of the foregoing as may be necessary or desirable for the installation and maintenance of utilities servicing all Owners and servicing all Common Area, all such easements to be of a size, width and location as the Declarant, in its discretion, deems best but selected in a location so as to not unreasonably interfere with the use of any improvements which are now, or will be, located upon the Properties.

Section 7. Drainage Easements. Drainage flow shall not be obstructed or diverted from drainage easements. The Association may, but shall not be required to, cut drainways for surface water wherever and whenever such action may appear to the Association to be necessary to maintain reasonable standards of health, safety and appearance. These easements include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other action necessary to install utilities and to maintain reasonable standards of health and appearance but shall not include the right to disturb any improvements erected within the Property which are not located within the specific easement area designated on the Plat or pursuant to this Declaration. Except as provided herein, existing drainage shall not be altered so as to divert the flow of water onto adjacent parcels or into sanitary sewer lines. The Association shall have the sole control over elevations and slopes within drainage easements and no one may alter any such elevations except upon written consent of the Association.

Section 8. Pond Access and Maintenance Easement. There is reserved by the Declarant, its successors and assigns, in favor of the Association, a non-exclusive "Pond Access and Maintenance Easement" on all Residential Areas Bounded by Water as shown or to be shown on the Plat(s). Such easement area will consist of all land within fifteen (15) feet of the water or more based on the water level as shown on the Plat(s). Subject to the prior approval by the Association such area may be landscaped by the Owner, however this reserved easement area shall permit the Association to go onto such area for purposes of repair and maintenance of the swales, grade and banks, etc. within the easement area. Although the Owner may landscape this "Pond Access and Maintenance Easement" area after approval of such plans by the ACC, the primary responsibility for landscaping and maintenance of this easement area shall belong to the Association with the costs of such landscaping and maintenance to be assessed collectively on an equal basis to all Owners who are subject to this Pond Access and Maintenance Easement; or, if there is any maintenance or repair work that is specific to any one or more Lots, then the costs for such work shall be assessed equitably and fairly between such respective Owner or Owners provided in all events such work will be subject to the terms of the Governing Documents.

Section 9. Pond Access, Maintenance and Irrigation Line Easement. There is reserved by the Declarant, its successors and assigns, in favor of the Association, a non-exclusive "Pond Access Maintenance and Irrigation Line Easement" applicable to Lots 1-14 and 23-26, as shown on the Plat. Subject to the prior approval of the Association such area may be landscaped by the Owner, however this reserved easement shall permit the Association to go onto such easement for pond access, maintenance of the area, and maintenance of the irrigation line and other facilities. Although the Owner may landscape this "Pond Access, Maintenance and Irrigation Line Easement" area after approval of such plans by the Association, the primary responsibility for landscaping and maintenance of this easement area shall belong to the Association with the costs of such landscaping and maintenance to be assessed individually to each respective Owner whose Lot requires such work subject to the terms of the Governing Documents.

Section 10. Landscape Buffers and Utility Easements. All Lots that border on any street are subject to a non-exclusive Landscape Buffer and Utility Easement in favor of the Association, as shown or to be shown on the Plat(s). Subject to the prior approval of the Association such easement shall be landscaped and maintained by the Owner of the applicable Lot subject to the terms of the Governing Documents; however, this reserved easement shall permit the Association to go onto such easement for access, maintenance and installation of any grading, landscaping and utilities within such areas. Notwithstanding, anything to the contrary as may be set forth herein, any costs related to these easements along any street shall be paid by the Association unless specific damage to a utility improvement or easement area is caused by a particular Owner or Owners, in which event such Owner or Owners shall be assessed the cost of such maintenance or repair. In addition to the foregoing, Lots 26 and 27 are subject to a landscape buffer easement within twenty (20) feet of the Golf Course Property which area will be maintained and planted exclusively by the Golf Course Owner at the Golf Course Owner's cost, provided if the Golf Course Owner fails to perform the work, the Lot Owner shall be responsible for performing such work.

Section 11. Easement Rights and Restrictions.

a. All of these easements and rights expressly include the right of the Declarant or the Association to cut any trees, bushes or shrubbery, make any grading of soil, or to take any other similar action reasonably necessary to provide economical and safe utility or other installations and to maintain reasonable standards of health, safety and appearance. The Declarant reserves the right to locate wells, pumping stations, and tanks on Common Area, or to locate same upon any Lot with permission of the Owner of the Lot.

b. No Improvements shall be erected upon any part of the Subdivision which will interfere with the easements rights of ingress and egress provided for in this Article VIII. Specifically, no Owner shall erect any Improvement within the areas designated on the Plat of the Subdivision as a "Drainage Easement" or "Utility Easement", nor shall any Owner change the grade of any such easement area; provided, however, that driveways may cross utility and drainage easements at the front of the Lots subject to the prior approval of the Declarant. Planting in easement areas shall not interfere with the applicable easement and shall be limited to grassing and small shrubbery as approved by the ACC. Subject to prior ACC approval the Association and/or the Declarant will have the right to install landscaping within easement areas located on the Lots; and unless stated to the contrary herein, the Owner of the applicable Lot, at such Owner's cost, will have the responsibility of maintaining and replacing such landscaping:

c. Each Owner shall keep drainage ditches and swales located on such Owner's Lot free and unobstructed and in good repair. Each Owner shall also provide for the installation of culverts upon such Lot as may be reasonably required for proper drainage.

d. The Declarant may, at its sole option, convey any easements to an appropriate governmental entity.

e. In addition to the rights reserved to the Declarant, and not in limitation thereof, the Declarant further reserves unto itself, its successors and assigns, a perpetual, alienable commercial easement and right of ingress and egress over, upon, across and under the Common

Area and all streets and roads within the Subdivision for the purpose of providing drainage, water and sewer and other utility installation, construction, reconstruction, and maintenance to adjacent property now or hereafter owned by the Declarant or the Golf Club Owner and for the installation and maintenance of any pipes, drainways, or other installations necessary for the foregoing and further for the installation, maintenance, repair, replacement and operation of drainage, water and sewer lines and other utilities which serve or shall serve property now or hereafter owned by the Declarant or the Golf Club Owner.

f. The Declarant, its agents, contractors, servants, employees and assignees may enter upon the easement areas for the purposes of maintaining, repairing, replacing and operating such water lines and other utilities and drainage facilities and for the purpose of installing additional utilities and drainage facilities.

g. The Owners of Lots on which such easements are located shall not interfere in any manner with such easements or any of the facilities located therein or the access thereto. No Owner shall erect any structure or fence within such easement areas without the prior written consent of the Declarant or the Association.

h. The Declarant and the Association, and their agents, employees and assignees shall have no liability for damage which may occur to any structures, plants, trees, or other items which may be located in such easements and neither the Declarant nor the Association shall have any obligation to replace any such structures which may be removed or damaged due to maintenance, repair or other work performed in such easement areas.

i. The Association further specifically reserves unto itself, its successors and assigns, perpetual, alienable, non-exclusive commercial easements and rights of ingress and egress over and under all Lots along an area five (5) feet in width inside each side boundary line of each Lot and ten (10) feet along the front and rear boundary line of each Lot for the purpose of installation, maintenance and repair of utilities and utility and drainage systems and facilities.

j. The easements set forth in this Article VIII shall be in addition to, and not in limitation of, any and all other easements reserved unto the Declarant or the Association.

Section 12. Ownership and Control of Lakes. No right title or interest, including, without limitation, riparian rights, in any lake or other body of water shall attach to or become appurtenant to the title to any Lot by reason of or upon conveyance of such Lot by the Declarant unless such conveyance specifically includes such rights. The Declarant does not warrant, nor has the Golf Club Owner warranted, nor shall they be obligated to maintain, any lake levels whatsoever nor shall they be responsible for any flooding, erosion or any naturally occurring conditions, including without limitation, odors or mosquitoes, in or on any lake, wetland or other body of water at any time. Lakes or other bodies of water owned or to be owned by the Declarant may be conveyed to the Association as Common Area, or to the Golf Club. To the extent any such lake or body of water shall be conveyed to the Association, then the Association shall assume and be responsible for all maintenance thereof. Any pond, lake or body of water that shall be contiguous to an Association Common Area and/or residential Lots, which property of the Association or property of the Golf Club, shall be maintained in accordance with the requirements of applicable permits and to the standards established by the Golf Club, in its discretion. The costs of

maintenance of such ponds, lakes and bodies of water which shall be contiguous to Association Common Areas and/or residential Lots, shall be shared equally between the Golf Club and the Association.

Section 13. Extent of Easements. The rights and easements created hereby shall be subject to the following:

a. The right of the Declarant to dedicate, transfer or convey all or any part of the Common Area or easements, with or without consideration, to any governmental body, district, agency or authority, or to any utility company, provided that no such dedication, transfer or conveyance shall materially and adversely limit the use of the Common Area by the Members of the Association. Notwithstanding the foregoing, the Declarant may dedicate, transfer or convey the roadways within the Property and the rights to operate the guard gate, guardhouse or any secured gated entry to a governmental body, district, agency or authority and such dedication, transfer or conveyance shall not be deemed to materially and adversely limit the use of the Common Area by the Members of the Association. The Declarant does not intend to dedicate, transfer or convey the foregoing items to any governmental authority unless such dedication, transfer or conveyance is required by the applicable governmental authorities or if approved by at least fifty-one percent (51%) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. Accordingly, if Members do not participate in such vote or do not attend the meeting less than fifty percent (50%) of the total Members within the Subdivision may vote on such issues. Written notice of such meeting shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

b. The right of the Declarant to grant and reserve easements and rights-of-way through, over, under, upon and/or across the Common Area or easement area for maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage and other utilities and services, including, without limitation, a cable (CATV) or community antenna television system and irrigation or lawn sprinkler systems, and the right of the Declarant to grant and reserve easements and rights-of-way through, over, under, upon and/or across the Common Area for the completion of the Subdivision, for the operation and maintenance of the Common Area and perpetual non-exclusive easements for ingress and egress and utility installation and maintenance to any other property of the Declarant or the owner of the Golf Club Property regardless of whether or not made subject to this Declaration.

c. The right of the Association to suspend the enjoyment rights of any Member or any Use Right Holder in the Common Area for any period during which any Assessment remains unpaid.

d. The right of the Association, in accordance with law, its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving, preserving and/or expanding the Common Area and easement areas and in pursuance thereof to encumber the same.

ARTICLE IX

PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Member's Easements of Enjoyment. Subject to the terms and provisions of this Declaration, every Member shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot. This right and easement shall be for use in common with all other Members, their tenants, guests and invitees. In the event the Declarant incorporates additional land under the provisions of this Declaration, all Owners of Lots within such additional phases shall have the same rights and privileges with regard to use of the Common Area as the Owners of Lots originally made subject to this Declaration.

Section 2. Transfer of Common Area.

a. On or before the Turnover Date, the Declarant shall convey the Common Areas owned by the Declarant to the Association. The Association shall accept title to any interest to any real or personal property transferred to it by the Declarant. Property interests transferred to the Association by the Declarant may include fee simple title, easements, leasehold interests and licenses to use. Any fee simple interest in property transferred to the Association by the Declarant shall be transferred to the Association by quit claim deed, subject to the terms of this Declaration, and any and all easements, rights-of-way, reservations, covenants, conditions, restrictions, equitable servitudes and other encumbrances of record or reserved by the Declarant in the instrument of conveyance. The property or interest in property transferred to the Association by the Declarant may impose special restrictions governing the uses of such property and obligations on the Association with respect to the maintenance of such property. All costs and expenses of any conveyance of any property by the Declarant to the Association shall be paid for by the Association.

b. The Association shall accept the conveyance of such property in its "as is" and "where is" condition without any representation or warranty, express or implied, in fact or by law, with respect thereto, or with respect to the improvements thereon or thereto, and without any representations or warranties regarding future repairs or regarding the condition, construction, accuracy, completeness, design, adequacy of the size or capacity in relation to the utilization, date of completion or the future economic performance or operations of, or the materials which has been or will be used in such property or repairs. By acceptance of an interest in any such property or the deed to any lot, the Association and all Lot Owners release the Declarant from any claims and agree that no claim shall be made by the Association or any Owner relating to the condition, or completeness of such property or repairs or for incidental or consequential damages arising therefrom.

c. The Association and all Owners, by the acceptance of title to any property or the deed to any Lot, release the Declarant from any further obligations with respect to repairs to Common Area or related improvements.

d. Notwithstanding, the terms of Article VII, Section 13, if required by the applicable governmental authorities, the Declarant may cause the streets, roads, guard gates and

houses, gated entries and easement areas individually or collectively to be dedicated to any governmental entity. In the event the streets, roads or easement areas are dedicated to a governmental entity, acceptance of such dedication may be conditioned upon the agreement of the Association that the Association shall maintain (at the Association's sole cost and expense) any and all landscaping, shrubbery, entrance signs or other improvements which may be located within the dedicated areas. In the event of such conveyance, the Declarant and the Association may not have the ability to operate the guard gates and houses or secured entries and hereby provide security to the Subdivision.

Section 3. Maintenance. The Association (or its designee) shall at all times maintain all Common Areas, including streets and roads, in good repair, and shall repair or replace, as often as necessary, paving, drainage structures, street lighting, fixtures, landscaping, entrance signage, and other amenities (except utilities) situated on the Common Area and maintain and keep in a clean condition all lakes, ponds, wetlands and other bodies of water which are part of the Common Area. Excluded herefrom shall be paving and maintenance of individual Lot driveways and easement areas located within the boundary lines of a Lot which shall be maintained by the applicable Owner in accordance with Association approval at Owner's sole costs and expense. However, if such Owner does not perform such repairs and maintenance as required in this subsection, then the Association shall perform such work and charge Owner for such costs. Nothing herein shall be construed as preventing the Association from delegating or transferring its maintenance obligations to a governmental authority or other entity under such terms and conditions as the Board of Directors may deem in the best interest of the Association.

Section 4. Maintenance of Other Property. The Association may maintain other property which it does not own, including, without limitation, roadways and rights-of-way located adjacent to the Properties or other property dedicated to the public, if required by any governmental or quasi-governmental agency or if the Board determines that such maintenance is necessary or desirable

Section 5. Additional Structures. Neither the Association nor any Owner or any group of Owners shall, without the prior written approval of the Declarant, erect, construct or otherwise locate any structure or other improvement in any portion of the Common Area.

Section 6. Delegation of Use.

a. The right and easement of enjoyment granted to an Owner in Section 1 of this Article may be exercised by members of the Owner's family who occupy the Owner's Residence.

b. The right and easement of enjoyment granted to an Owner in Section 1 of this Article may be delegated by the Owner to approved tenants who occupy the Owner's Residence.

c. The Amenity Center and any other recreational facilities and Common Areas, may be utilized by guests, invitees or tenants of Owners subject to this Declaration, the By-Laws, Rules and Regulations and other Governing Documents.

d. The foregoing paragraphs in this Section also apply to the family, tenants, invitees and guests of any Use Right Holder.

Section 7. Traffic Regulation.

a. The Association and the Declarant shall have the right to post speed limits on streets dedicated to the Association or owned by the Declarant and promulgate traffic regulations for use of its streets and Common Areas.

b. The Association shall have the right to establish enforcement mechanisms for violation of such traffic regulations and speed limits, including, without limitation, the assessment of fines which shall be collected as an Individual Assessment from Members, the removal of vehicles from the Properties, and the suspension of a Member's rights and easements of enjoyment to the Common Areas.

Section 8. Maintenance and Access Agreement. The Declarant and/or the Association will have the right to enter into an agreement with the Golf Club Owner to permit the Golf Club Owner to maintain, repair and operate portions of the Common Area, including, but not limited to, streets, guardhouses, gated entries, landscaped areas and all or any easement areas located within the Subdivision. Since the Golf Club Owner may have personnel on staff and may own or lease equipment, vehicles and other property necessary to perform such functions, it may be more economical for the Golf Club Owner to perform such functions. The Association, as a cost and expense of the Association, shall pay the Golf Club Owner a reasonable fee for performing such services.

ARTICLE X

ASSESSMENTS AND INITIAL CONTRIBUTION

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Declarant covenants, and each Lot Owner by acceptance of a deed therefor, is deemed to covenant and agree to all the terms and provisions of this Declaration and to pay the Association (i) Regular Assessments, (ii) Special Assessments and (iii) Individual Assessments, all fixed, established and collected from time to time as hereinafter provided. The Regular, Special and Individual Assessments, together with interest thereon and costs of collection therefor, shall be a charge and continuing lien as provided herein on the property and improvements thereon of the Owner against whom each such Assessment is made. Each such Assessment, together with interest thereon and cost of collection, shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment first became due and payable. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Area or by the abandonment of the property against which the Assessment was made. In the case of co-ownership of a Lot, all of such Owners shall be jointly and severally liable for the entire amount of the Assessment.

Section 2. Initial Contribution. Upon the closing of the initial and each subsequent sale of each Lot (except for the transfer of any lot to a contractor selected by Declarant for programmed lot/home packages to be marketed to consumers), the purchaser of any Lot shall pay

a contribution to the Association of Eight Hundred Fifty and No/100 Dollars (\$850.00), or such amount as may be determined by the Association from time to time. Such payment shall not in any way be considered a prepayment of any Regular or Special Assessment. Such funds may be used by the Association, as the Board of Directors shall direct.

Section 3. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents of the Subdivision, and in particular for (i) the improvement and maintenance of the Common Area (including streets and roads when conveyed) and other properties within the Subdivision and, (ii) the improvement and maintenance of property located outside of the Subdivision (including, without limitation, identification and/or directional signage, including landscaping either exclusively or in cooperation with other associations or parties), now or hereafter designated or existing. Funds from the Assessments will be used towards payment of Common Expenses, which include, but are not limited to, the payment of taxes and insurance thereon, and repair, replacement and additions thereof, the cost of labor, equipment, materials, management and supervision thereof, the employment of attorneys to represent the Association when necessary and such other needs as may arise. In the event the Declarant or its managers or agents perform any of the foregoing services for the Association, including, but not limited to, accounting and bookkeeping services, it shall have the right to receive a reasonable fee therefore and such payment shall not be deemed to be a conflict of interest.

Section 4. Amount and Payment of Assessments.

a. The Board shall annually determine the amount of the Regular Assessments for the Properties and determine other Assessments as provided in the By-Laws and other Governing Documents.

b. The Board shall prepare a roster of Owners and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the Assessment shall be sent to every Owner subject thereto.

c. All Regular Assessments and Special Assessments shall be equal and uniform for each Lot except as expressly provided in this Declaration. Notwithstanding the foregoing, in the event that two (2) or more Lots are legally combined to become a single Lot as may be permitted under this Declaration, such Owner will be assessed for each Lot constituting the combination of Lots for the purposes of determining Assessments applicable to such combined Lot. For purposes of example, if an Owner combined two (2) Lots, its assessment for such combined Lot shall be equal to the Assessment due for two (2) Lots.

d. Each Regular Assessment shall be fully payable in advance on or before the 20th day of January each year. The Board shall have the option to permit monthly or quarterly payments. The exact amount of each Regular Assessment shall be fixed by the Board.

e. The Association shall, upon demand at any time, furnish to any Owner liable for any assessment, a certificate in writing, signed by an officer of the Association or by the Association manager, setting forth whether said assessment has been paid. Such certificate shall

be in recordable form and shall be conclusive evidence of the payment status of any assessment therein stated to have been paid.

Section 5. Special Assessments. In addition to the Regular Assessments, the Association may levy, in any assessment year, a Special Assessment for the purpose of defraying, in whole or in part, the costs of any acquisition, construction or reconstruction, or repair or replacement of a specific capital improvement upon the Common Area or easements, including streets and roads and the necessary fixtures and personal property related thereto. Any such Special Assessment shall require the approval of at least fifty-one percent (51%) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. Accordingly, if Members do not participate in such vote or do not attend the meeting less than fifty percent (50%) of the total Members within the Subdivision may vote on and approve such Special Assessment. Written notice of such meeting shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The due date of any Specified Assessment shall be fixed in the resolution authorizing such assessment.

Section 6. Individual Assessments. The Association may impose an Individual Assessment upon a Lot Owner whose use or treatment of Common Areas or other property is not in conformance with the standards required by the Governing Documents. Such Assessment shall be equal to the cost to the Association to cure such violations plus interest as provided herein, plus costs of collection as provided herein, and may be enforced in the manner provided for any other Assessment.

Section 7. Paid Professional Manager. The Board may employ a professional manager or managerial firm to supervise all the work, labor, services and material required in the operation and maintenance of the Common Area and in the discharge of the Association's duties. The costs and expenses of such professional manager or managerial firm will be the Association's responsibility.

Section 8. Effect of Non-Payment of Assessment.

a. Any Assessment levied against a Lot remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on that Lot and a claim of lien may be filed of record in the Office of the Clerk of Superior Court for Brunswick County, North Carolina. Such assessment shall be deemed delinquent and shall, together with interest thereon and cost of collection thereof, continue as a lien on the Lot or Lots, which shall bind such Lot or Lots in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the Owner to pay such assessment and other amounts due, however, shall remain the Owner's personal obligation and will also pass on to the Owner's successor in title, if the Lot is sold or otherwise transferred.

b. If the Assessment or any other amount due from an Owner is not paid within thirty (30) days after the due date, such unpaid amount shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum or the then maximum legal rate of interest whichever is greater, together with such late charges as the Board may establish from time to time. The Association may bring legal action against the Lot or Lots in the same manner as a mortgage or deed of trust is foreclosed to collect such amounts. In the event a judgment is

obtained, such judgment shall include interest as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action. The Association, by and through its Board, shall have the authority to compromise and settle claims for assessments upon a majority vote and upon good cause shown.

Section 9. Subordination of the Lien to Mortgages.

a. The lien of the assessments and any other amounts due from the Owner to the Association provided for in this Declaration shall be subordinate to the lien of any First Mortgage or first deed of trust to an Institutional Lender now or hereafter placed upon any Lot subject to assessment and reimbursement; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any court authorized proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such Lot or Owner from liability for any assessments or other amounts thereafter becoming due, nor from the lien of any subsequent assessment or reimbursement.

b. In the event the lien herein created is extinguished by the sale or transfer of a Lot pursuant to a foreclosure or court authorized proceeding in lieu of foreclosure as aforesaid, such delinquent assessment or other unpaid amounts which were extinguished may be reallocated and assessed to all of the Lots in the Subdivision. Any such sale or transfer pursuant to a foreclosure or proceeding in lieu of foreclosure shall not relieve the purchaser or transferee of a Lot from liability for, nor the Lot from the lien of, any assessments, other amounts that are due or other amounts arising thereafter.

Section 10. Exempt Property. All Common Area and any property to the extent dedicated and accepted by any governmental entity shall be exempted from Assessments, charges and liens created in this Declaration.

Section 11. The Declarant. Prior to the Turnover Date, the Declarant shall have no obligation to pay any Assessments on Lots which the Declarant (or any affiliate of the Declarant) owns. Until that time, the Declarant may elect annually to pay the "deficit", which is the difference between the amount of Assessments and the amount of actual expenditures required to operate the Association during the fiscal year. The election of the Declarant to pay Assessments or the deficit shall be by written notice to the Board not less than thirty (30) days prior to the beginning of each fiscal year and if no notice is delivered by the Declarant, the Declarant shall be deemed to have elected to pay such deficit. After the Turnover Date, the Declarant shall be obligated to pay Assessments solely on Lots which it owns.

Section 12. Use Right Holders.

a. The Association will have the right to establish rules and regulations for use of amenities located within the Property, including, but not limited to, use of the Amenity Center, as may be amended from time to time.

b. Each Use Right Holder may be assessed an initial contribution to be paid to the Association. The initial contribution is not in any way to be considered a prepayment of any regular monthly fee. Such funds may be used by the Association in its discretion.

c. Each and every holder of a Use Right shall pay to the Association a monthly fee. The amount of such fee shall be set by the Association, and payment of such fee will entitle the Use Right Holder, and the Owners, guests, invitees and tenants, to the use of the Amenity Center and other amenities within the Subdivision.

d. The monthly fee may be paid either by the Use Right Holder individually, or by any association or group to which the holder belongs and if not paid by such Use Right Holder, the Owner shall be liable for any unpaid sums.

e. Non-payment of Use Right fees shall be grounds for barring the Owner, Use Right Holder, and the guests, invitees and tenants from use of such amenities. The Association shall have powers to collect delinquent Use Right fees as Individual Assessments against the applicable Lot Owner in accordance with the terms of this Declaration.

Section 13. Fines. In addition to all other remedies, in the sole discretion of the Board, a reasonable fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees, lessees or employees to comply with any of the terms and provisions of the Governing Documents. The notice and hearing procedures set forth in the By-Laws shall be followed by the Association prior to the assessment of a fine. Once imposed, fines shall be treated as an assessment subject to the provisions for the collection of assessments as set forth in this Declaration.

Section 14. Reserve Budget and Reserve Contribution.

a. The Board may annually prepare a reserve budget which may, but shall not be required to, take into account the number and nature of replaceable assets, the useful life of each asset and the anticipated repair and replacement cost. If a reserve budget is established, the Board shall have the right, but not the obligation, to set the required reserve contribution, in an amount sufficient to permit meeting the projected needs of the Association, estimated by the reserve budget, with respect both to amount and timing of Assessments over the period of the budget.

b. If reserves are established, the Declarant shall be under no obligation to fund or pay the reserve contributions.

c. Nothing in this section or this Declaration shall require the Association to collect or assess for capital reserves. If reserves are collected, no representation is made that the amounts collected will be sufficient for any or all capital replacements or repairs.

Section 15. Estoppel Certification. Prior to any transfer or conveyance of any Lot (except the original conveyance of Lots by the Declarant), the purchaser/guarantee shall obtain from the Association an Estoppel Certification evidencing that all Assessments, fines and obligations due to the Association are current and in compliance with the requirements of this Declaration. Any successor, which has failed to obtain such Certification from the Association and/or has not satisfied the outstanding sums due or obligations identified in the Estoppel Certification, as of Closing, shall be and remain liable for all such sums and/or obligations which shall run with the Lot and become personal obligations of the then Owner of the Lot. This Estoppel

Certification shall also include such Certification of Compliance as required pursuant to Article VI, Section 8 of this Declaration.

Section 16. Capital Contribution. The initial purchaser and each successor purchaser of a Lot shall be required to pay a capital contribution within thirty (30) days of purchase, to Association in the amount of One Thousand dollars (\$1,000.00), or such amount as shall then be established by the Board. The Capital contribution payment shall be applied by the Association to the then current operating budget.

ARTICLE XI

MATTERS PERTAINING TO THE GOLF CLUB

Section 1. General. The Golf Club Property is not Common Area. The Golf Club Property is private property owned and operated by the Golf Club Property Owner or its assigns and administered according to membership policies and rules and regulations adopted by the Golf Club Owner from time to time. The Golf Club Property Owner has the exclusive right to determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom facilities on the Golf Club Property shall be used, if at all. Ownership of a Lot or any other portion of the Property or membership in the Association does not give any vested right or easement, prescriptive or otherwise, to use the Golf Club Property, and does not grant any ownership or membership interest therein.

Section 2. Rights of Access and Parking. The Golf Club Property Owner, the employees, agents, contractors and designees of the Golf Club Property Owner and the persons permitted to use the Golf Club Property by the Golf Club Property Owner and their guests shall at all times have a right and non-exclusive easement of access and use over all guard gates, gated or secured entries and roadways located within the Properties reasonably necessary to travel to and from the entrances to the Properties from and to the Golf Club Property, respectively, and, further, over those portions of the Properties (whether Common Area or otherwise) reasonably necessary to the use, operation, maintenance, repair and replacement of the Golf Club Property. Without limiting the generality of the foregoing, persons who are permitted use of the Golf Club Property shall have the right to park their vehicles on the roadways within the Properties at locations approved by the Association and at reasonable times before, during, and after golf tournaments and other functions held by or at the Golf Club Property.

Section 3. Control. The Association shall have no power to promulgate rules and regulations affecting activities on or use of the Golf Club Property without the prior written consent of the Golf Club Property Owner.

Section 4. Golf Club Property Easements.

a. There are hereby-established easements over the Common Areas for ingress and egress, utilities, and other purposes reasonably necessary or convenient to the development, maintenance, preservation, administration, advertisement, or operation of the Golf Club and the sale of memberships in the Golf Club. The easements created hereby shall include, but are not limited to, easements for the installation, operation, maintenance, repair, replacement, monitoring

and controlling of irrigation systems and equipment (including wells, pumps and pipelines), utility lines, wires, and drainage pipelines and for ingress and egress for storage and maintenance vehicles and equipment.

b. The easements established hereby shall include the use of the Common Areas (including access through security and/or guard gates) as reasonably necessary to travel from the entrance to the Property to the Golf Club and to and from portions of the Golf Club Property. The easements created in this Section includes the right of golfers playing at the Golf Club to drive golf carts along or across the private roads within the Property during authorized play at the Golf Club.

c. In no event shall the Association exercise its authority over the Common Areas (including, but not limited to, security and/or guard gates and similar controls on access to the Property) in any manner that would deny or impede access to the Golf Club or to otherwise frustrate the rights of the Golf Club Owner and its guests, invitees, employees, agents, contractors, and designees to use the Common Areas as provided in this Declaration. The Association shall not establish or change the hours of operation of any security and/or guard gates without the prior written consent and concurrence of the Golf Club Owner.

d. The Lots and Common Areas adjacent to the Golf Club Property are hereby subjected to a non-exclusive easement in favor of the Golf Club Property for overspray of water from any irrigation system serving the Golf Club Property. Under no circumstances shall the Association, the Declarant, or the Golf Club Owner be held liable for any damage or injury resulting from over spray or the exercise of the foregoing easements or use.

Section 5. Landscape Requirements. That portion of any Golf Residential Area within twenty (20) feet of the property line bordering the Golf Club Property shall be in general conformity with the overall landscaping pattern for the Golf Club as established by the Golf Club Owner and agreed to by the Association provided the approval of the Association shall not be unreasonably withheld or delayed. As with any Lot improvements, all individual Lot landscaping plans must be approved by the ACC prior to implementation.

Section 6. Golf Club Maintenance and Drainage Easement. There is reserved by the Declarant, its successors and assigns, a non-exclusive "Golf Club Maintenance and Drainage Easement" on each Golf Residential Area. Such easement area will consist of all land within twenty (20) feet of the property line bordering the Golf Club as shown on the Plat of Subdivision. Such area shall be landscaped and maintained only by the Golf Club Owner and not by the Owner of the Lot. This reserved easement area shall permit the Declarant and/or the Golf Club Owner, their successors or assigns, access for the purpose of landscaping or maintaining said area. By written notice to any Owner the Golf Club Owner may elect not to maintain the "Golf Club Maintenance and Drainage Easement", in which event such area will be maintained by the Owner of the applicable Lot unless provided otherwise therein subject to the terms of the Governing Documents.

Section 7. Permissive Easement for Golfers. Subject to the limitations set forth in this Section 7, the Declarant, the Association and the Golf Club Owner reserve an easement to permit and authorize registered Golf Club players to enter upon a Lot to recover a ball, subject to the

official rules of the Golf Club, without such entering being deemed a trespass. Such entry shall only be allowed in the twenty foot (20') Golf Club Maintenance and Drainage Easement area as defined above. No golf play shall be permitted in this easement area or in the Lot. Golfers shall not be entitled to enter any such Lot (including this easement area) with a golf cart or other vehicle (motorized or otherwise), nor spend more than two (2) minutes time in such Lot or easement area, or in any other way commit a nuisance or damage such Lot improvements or personal property. "Out of Bounds" markers located within the Golf Club Maintenance and Drainage Easement may be placed by the Declarant, the Association or the Golf Club Owner.

Section 8. Distracting Activity Prohibited. The Owners and occupants of Golf Residential Areas shall refrain from any actions, including, but not limited to, landscaping and installation of walls or fences, which would detract from the playing qualities of the Golf Club. Such prohibited actions shall include the maintenance of uncontrolled pets or persons or any other activity that in the discretion of the Declarant, the Association or the Golf Club Owner may be deemed a nuisance due to noise or activity. Examples of this type of activity include, but are not limited to, loud dog barking, pickup of golf balls during hours the Golf Club is open, running on the fairways, or other like interference with golf play. No fences shall be allowed within the Golf Club Maintenance and Drainage Easement or other easement areas within Golf Residential Areas except as required by governmental authorities and as permitted by the Association and the Golf Club Owner.

Section 9. Assumption of Risk and Indemnification. Each Lot Owner hereby expressly waives all claims in connection with, and assumes the risk of, noise, personal injury or property damage caused by maintenance and operation of the Golf Club Property, including, without limitation: (i) noise from maintenance equipment, (ii) noise caused by golfers, (iii) use of pesticides, herbicides and fertilizers or water overspray in easement areas, (iv) view restrictions caused by maturation of trees and shrubbery or redesign of the Golf Club Property, (v) reduction in privacy caused by golf traffic on the Golf Club Property or the removal or pruning of shrubbery or trees on the Golf Club, and the design of the Golf Club Property, (vi) damages caused by golf balls or golfers; and agrees that neither the Declarant, Association, Golf Club Property Owner, Golf Club designer, nor any of their affiliates or agents nor any other entity owning or managing the Golf Club shall be liable to any Owner or any other person claiming any loss of damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of a Lot to the Golf Club Property, including, without limitation, any claim arising in whole or in part from the negligence of the Declarant, Association, Golf Club Property Owner, Golf Club designer or any other entity owning or managing the Golf Club. The Owner hereby agrees to indemnify and hold harmless the Declarant, Association, Golf Club Property Owner and any other entity owning or managing the Golf Club against any and all claims by the Owner, or the Owner's visitors, tenants and others upon such Owner's Lot. The Lot Owners that are adjacent to the Golf Club Property acknowledge that they have received good and valuable consideration for this waiver in that the value of such Lots is increased by virtue of such Lot being adjacent to the Golf Club Property.

Section 10. Use of Lakes and Waterways.

a. The lakes, ponds, canals, waterways and drainage system (“Water Management Areas”) for the Subdivision and/or the Golf Club Property may or may not be owned and operated by the Golf Club Owner. Notwithstanding the ownership or control of such Water Management Areas, the Golf Club Owner shall at all times have the right, subject to obtaining all required governmental permits, to use and divert the water in all lakes, ponds, canals and waterways located in the Property or elsewhere for the purposes of irrigation, watering and maintenance of the golf courses and related facilities comprising part of the Golf Club, subject to applicable laws, regulations and permit requirements governing water use.

b. The Golf Club Owner shall have the following privileges relating to the operation of the Golf Club: (i) the right to have golf balls fly over, land on and in the Water Management Areas, (ii) the right of golfers to retrieve by rake or golf ball retriever golf balls from the lakes and canals located within Water Management Areas at the sole risk of the golfer, (iii) the right of the Declarant, at its sole risk, to retrieve golf balls within lakes and canals located within the Water Management Areas not retrieved by golfers by raking the golf balls from the bottom of the lake or by scuba divers, provided divers shall be prohibited in diving in lakes which are utilized for storing of effluent irrigation water unless otherwise permitted by all governmental bodies and agencies regulating use of effluent irrigation water and the lakes such water is stored in, and (iv) the right to utilize the Water Management Areas for irrigation water withdrawal subject to obtaining and complying with all applicable requirements of governmental and quasi-governmental authorities having jurisdiction over the Water Management Areas and the Golf Club.

c. Such right of use shall extend to the employees, agents and invitees of the parties hereto. For the purposes hereof, invitees of the Owner shall specifically include members of the Golf Club and all guests of the members of the Golf Club and Declarant plus any party playing the Thistle Golf Course for the period of such play between sunrise and sunset.

d. In the event there are insufficient water levels to provide the necessary irrigation needs of the Golf Club and other areas of the Property, subject to applicable governmental permits and requirements, the Golf Club shall have first priority for irrigation.

Section 11. Amendments Affecting Golf Club Property. No amendments may be made to this Article or any other provisions of this Declaration which adversely affect the Golf Club Property Owner, the Golf Club Property, the use of the Golf Club or access to the Golf Club Property without the prior written consent of the Golf Club Property Owner.

ARTICLE XII

APPROVAL OF LEASES

Section 1. Leases. Approvals of leases need not be recorded. Only entire Lots with Residence thereon may be leased. All leases must provide, and if they do not, shall be deemed to provide, the agreement of the lessee(s) to abide by all of the Governing Documents and that a violation of the Governing Documents is a default under the lease. Each Owner agrees that the Association may proceed directly against such lessee(s) and that the lessee(s) shall be responsible

for the Association's costs and expenses, including attorneys' fees, at all trial and appellate levels. If such costs and fees are not immediately paid by the lessee(s), the Lot Owner shall pay them as an Individual Assessment. Each Owner irrevocably appoints the Association as the Owner's agent authorized to bring actions in the Owner's name and at the Owner's expense including injunction, damages, termination, and eviction. Copies of the Governing Documents must be provided by the Owner to the lessee(s) by or on the behalf of the Owner at or before the commencement of the lease term. The minimum leasing period is one (1) year.

Section 2. Multiple Owners. De facto time-sharing of Lots is not permitted and approval will not be given for the sale of a Lot or an interest in a Lot to multiple persons (e.g., siblings or business associates), who may intend that they and their families would divide occupancy of the Lot into different time periods during the year.

Section 3. Approval Procedure. The approval of the Association for leases shall be obtained as follows:

a. Not later than thirty (30) days before the first day of occupancy under a lease, written notice shall be given the Board by the Owner of intention to lease the Residence. The notice shall include the name and address of the proposed lessee and a correct and complete copy of the proposed documents to be executed to effectuate the transaction. The Association may require such other and further information as it deems reasonably necessary and may impose a reasonable review.

b. The Board must, within fifteen (15) days after receipt of all the information required above, either approve the lease, disapprove it for cause, or request additional information (in which event the such approval or disapproval must be forthcoming within fifteen (15) days of receipt of such additional information). In exercising its power of disapproval the Board must act in a manner that is neither arbitrary nor unlawfully discriminatory and withhold approval only for a reason or reasons rationally related to the protection, preservation, and proper atmosphere of the Subdivision and the enjoyment of all Owners. If the Association fails or refuses within the allotted time to notify the Owner of either approval or disapproval in writing, then the Association shall conclusively be presumed to have approved the lease.

c. If the Association disapproves of the proposed lease, notice of disapproval shall promptly be sent in writing to the Owner. The Association need not approve any lease until such time as all unpaid Assessments and court costs and attorneys' fees (if any) incurred by the Association that are due and owing for the Lot have been fully paid.

d. Any transaction that is not approved pursuant to the terms of this Declaration shall be void unless subsequently approved by the Association.

ARTICLE XIII

ADDITIONAL RIGHTS OF THE DECLARANT

Section 1. Subdivision Development. The Declarant and its successors or assigns will undertake the work of constructing infrastructure and improvements related thereto as deemed necessary by the Declarant. The completion of that work and the sale, resale, rental and other

disposal of Lots is essential to the establishment and welfare of the Subdivision as a community. As used in this Section and its subparagraphs, the words "its successors or assigns" specifically do not include purchasers of completed Lots. In order that said work may be completed and the Subdivision established as a fully occupied community as rapidly as possible, no Owner or the Association shall do anything to interfere with the Declarant's activities. Without limiting the generality of the foregoing, nothing in this Declaration or the other Governing Documents shall be understood or construed to prevent the Declarant, its successors or assigns, or its or their contractors or subcontractors and their representatives from:

- a. Conducting on any property owned by them whatever they determine to be necessary or advisable in connection with the completion of said work; or
- b. Erecting, constructing and maintaining on any property owned or controlled by the Declarant, or its successors or assigns or its or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing said work and establishing the Subdivision as a community and disposing of the same by sale, lease or otherwise; or
- c. Conducting on any property owned or controlled by the Declarant or its successors or assigns, its or their business of developing, subdividing, grading and constructing improvements on the Properties and of disposing of Lots therein by sale, resale, lease or otherwise; or
- d. Determining the nature of any type of improvements to be constructed as part of the Subdivision.
- e. Granting easements for access to the Golf Club Property and/or roads within the Properties for the benefit of adjacent or contiguous properties owned by Declarant, the Golf Club and/or any affiliates thereto.

Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction of Residences and initial sale of Lots shall continue, it shall be expressly permissible for the Declarant to maintain and carry on upon portions of the Common Area and Lots owned by the Declarant such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction, initial sale of Lots, resale of Lots, including, but not limited to, business offices, signs, model lots, and sales offices, and the Declarant, its successors and assigns and their designees shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use any Lot owned by the Declarant, the right to show the Amenity Center and any other amenities which may be owned by the Association.

Section 2. Association Actions Requiring Approval. Without the consent of the Declarant, prior to the Turnover Date the Association shall not be entitled to:

- a. by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned, directly or indirectly, by the Association (the granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be deemed a transfer within the meaning of this clause); or

b. waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Lots; or

c. fail to maintain insurance as required herein, if available at reasonable rates;
or

d. use hazard insurance proceeds for losses to any Common Area for other than the repair replacement or reconstruction of such Common Area.

Section 3. Future Easements and Modifications. The Declarant expressly reserves the right to grant easements and rights-of-way over, under and through the Common Areas so long as the Declarant owns any portion of the Property primarily for development and/or resale; provided, no such easement shall materially interfere with the use of the Common Area by the Members. The Declarant reserves the right to grant, modify or enter into easements, dedications, agreements, licenses, restrictions, reservations, covenants and rights of way, to modify the boundary lines and to plat or replat portions of the Property. The Association and each Owner agree to execute and deliver any and all easements, deeds, agreements, documents, plats and instruments which are necessary or desirable to accomplish the same. Each Owner and the Association hereby unconditionally and irrevocably appoint the Declarant as its true and lawful attorney-in-fact, coupled with an interest, for the purpose of (i) granting, modifying, or entering into easements, dedications, agreements, licenses, restrictions, reservations, covenants and rights-of-way, which the Declarant determines to be necessary or desirable for the development of the Property, (ii) complying with any of the platting or zoning requirements affecting the Property, and (iii) taking such other action as the Declarant may deem necessary and appropriate to develop the Subdivision. This power of attorney will be effective as of the date hereof, giving and granting unto the Declarant full power and authority to do and perform all and every act and thing whatsoever requisite and necessary in furtherance of the foregoing as fully, to all intents and purposes, as such Owner or the Association might take or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that the Declarant or its substitute shall lawfully do or cause to be done by virtue hereof.

Section 4. Reservation of Additional Easements and Rights. The Declarant reserves for itself and its successors and assigns easements over, under and across all Common Area for ingress and egress and for construction and completion of construction and development of future phases including, without limitation, easements for the installation, construction, reconstruction, repair, maintenance and operation of all utility and drainage services. Said easements shall be in addition to and not in lieu of any other rights or easements reserved by the Declarant under this Declaration or in any supplement hereto or any other conveyance by or to the Declarant or its predecessors in title.

Section 5. Extension of Roads. The Declarant shall have the right, but not the obligation, to extend any street or road now or hereafter located within the Property, without seeking the approval of the Association or any other party, for the purpose of serving additional phases of the Subdivision and/or for serving other parcels of property not included within the Subdivision.

Section 6. Amendment. This Article may not be amended without the express written consent of the Declarant as long as the Declarant either owns any Lot within the Property, or operates an office of real estate sales and/or resales within the Property.

Section 7. Identification of Additional Phases. Nothing in this Declaration shall prohibit the Declarant from naming or identifying any phase or portions thereof by a name other than “Thistle Downs” or “Thistle Downs Subdivision” and any such other designation shall in no way prejudice the rights or obligations under this Declaration of any Owner of any Lot in any such section or phase.

ARTICLE XIV

INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Board of Directors, as an expense of the Association, or its duly authorized agent may obtain the following insurance, if available at reasonable rates:

- a. Blanket all-risk coverage insurance for all insurable improvements to the Common Area (or the most similar type of coverage reasonably available if all-risk coverage is not reasonably available) for one hundred percent (100%) of the replacement cost, with a reasonable deductible amount, if available at reasonable rates;
- b. Public liability insurance covering the Common Area, the Association and its Members;
- c. Officers’ and directors’ insurance for the officers and directors of the Association; and
- d. Such other insurance as may be determined by the Board from time to time.

Section 2. Authority. All policies on the Common Area shall be for the benefit of the Declarant, the Association and its Members. Premiums for all such insurance shall be included in the Regular Assessment. Exclusive authority to adjust losses shall be vested in the Board of Directors. In no event shall the insurance coverage obtained and maintained by the Board of Directors be brought into contribution with insurance purchased by any other party.

Section 3. Individual Insurance. Each Lot Owner covenants and agrees to carry blanket all-risk casualty insurance on their Lot(s) and structures constructed thereon. Each Owner of a Lot further covenants and agrees that in the event of any loss or damage to his or her Lot, the Owner shall remove all debris within sixty (60) days and complete repair or reconstruction of the damaged structure as soon as reasonably practicable but in any event within eighteen (18) months in a manner consistent with the original and any revised ACC approval therefor. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. Repairs shall be undertaken and completed in compliance with all applicable provisions hereof.

Section 4. Damage and Destruction.

a. Immediately after damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors shall proceed with the filing and adjustment of all claims arising under such insurance and obtain estimates of the cost of repair or reconstruction of the damaged or destroyed Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes or other governmental requirements.

b. Any damage or destruction to the Common Area shall be properly repaired or reconstructed, as quickly as practicable. Any cost of repair or maintenance in excess of insurance proceeds shall be funded by Special Assessment.

ARTICLE XV

CONDEMNATION

Whenever all or any part of the Common Area shall be taken by condemnation, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association to be disbursed as follows:

a. If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless Members representing at least seventy-five percent (75%) of the total votes qualified to be cast at such meeting shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available therefor, in accordance with plans approved by the Board of Directors. If such improvements are to be repaired or restored, the provisions regarding the disbursement of funds in respect to casualty, damage or destruction which is to be repaired shall apply.

b. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are funds remaining after any such restoration or replacement is completed, then such award or funds shall be disbursed to the Association and used for such purposes as the Board of Directors shall determine.

ARTICLE XVI

CENTRAL CABLE TELECOMMUNICATIONS AND SECURITY SERVICES

Section 1. Use. The Declarant reserves and retains to itself, its successors and assigns:

a. The right to create, or give a license for, a central cable telecommunication receiving and distribution system, guardhouse and gated entry communication system, and any electronic monitoring system within the Subdivision, together with a perpetual easement for the placement and location thereof, including without limitation, conduits, wires, amplifiers, towers, antennae and related apparatus and equipment; and

b. A perpetual non-exclusive easement for ingress and egress to service, maintain, install, repair and replace the aforesaid apparatus and equipment; and

c. The right to empower a licensee or franchises to provide exclusive cable telecommunication, security and/or electronic monitoring services within the Subdivision, and to enter into an exclusive agreement with such licensee or franchises. Each Owner's regular assessment may include a specified monthly charge to each Lot for the fees charged to the Association for basic cable television service and electronic monitoring services pursuant to any such exclusive agreement, whether or not any Owner elects not to use such services.

Section 2. Electronic Monitoring Services. The Declarant, the Association, their successors or assigns or licensees or franchisees, and the cable TV or electronic monitoring system operator may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the Declarant, nor any Successor Declarant shall in any way be considered insurers or guarantors of security, security gates, or security guards within the Subdivision, and neither the Association, the Declarant, nor any Successor Declarant shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and occupants of any Lot, tenants, guests and invitees of any Owner, as applicable, acknowledge that the Association, its Board of Directors, the Declarant, or any Successor Declarant do not represent or warrant that any fire protection system, electronic monitoring system or other security system designated by or installed according to guidelines established by the Declarant or the ACC may not be compromised or circumvented, that any fire protection or electronic monitoring systems or other security systems will prevent loss by fire, smoke, burglary, theft, hold-up, or otherwise, nor that fire protection or electronic monitoring systems or other security systems will in all cases provide the detection or protection for which the system is designed or intended. Each Owner and occupant of any Lot, and each tenant, guest and invitee of an Owner, as applicable, acknowledges and understands that the Association, its Board of Directors and committees, the Declarant, or any Successor Declarant are not insurers and that each Owner and occupant of any lot and each tenant, guest and invitee of any Owner assumes all risks for loss or damage to persons, to residences and to the contents of residences and further acknowledges that the Association, its Board of Directors and committees, the Declarant, or any Successor Declarant have made no representations or warranties nor has any Owner, occupant, tenant, guest or invitee relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any fire and/or electronic monitoring systems or other security systems recommended or installed or any security measures undertaken within the properties.

ARTICLE XVII

GENERAL PROVISIONS

Section 1. Term. This Declaration shall have a term of fifty (50) years from the date this Declaration is recorded, after which time the term shall be automatically extended for successive periods of ten (10) years each, unless an instrument in writing, signed by seventy-five percent (75%) of the then Lot Owners and the Golf Club Property Owner, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change

said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

Section 2. Additional Restrictions. Each Lot, Common Area and Owner shall be and is subject to all easements and restrictions of record as they may be amended from time to time.

Section 3. Time of Essence. It is agreed that time is of the essence with regard to the terms and provisions of this Declaration.

Section 4. Enforcement. In the event of a violation or breach of any of the terms and provisions of this Declaration by any Owner or Use Right Holder, or agent, guest, invitee of such Owner or Use Right Holder, jointly or severally, the Declarant and/or the Association shall have the right to proceed at law or in equity to compel compliance to the terms hereof, to prevent the violation or breach in any such event, and/or to recover damages. In addition to the foregoing, the Declarant, its successors and assigns, shall have the right, but not the obligation, whenever there shall have been built on any Lot in the Subdivision any Improvement which is in violation of these restrictions, to enter upon the Lot where such violation exists, and summarily abate or remove the same at the expense of the Owner, if, after thirty (30) days written notice of such violation, such violation shall not have been corrected by the Owner. Notwithstanding the foregoing, for emergency and safety reasons no prior written notice will be required. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation, restriction, condition or provision contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. Should the Declarant or Association employ counsel to enforce any of the covenants, conditions, reservations, restrictions or provisions of this Declaration, all fees and costs incurred in such enforcement, including a reasonable attorneys' fee for the Declarant's and/or Association's counsel shall be paid by the Owner of such Lot or Lots in breach thereof. Any amount assessed hereunder shall constitute a lien on such Lot and shall be enforceable as provided in this Declaration.

Section 5. Responsibility of the Declarant. The Declarant shall not in any way or manner be liable or responsible for any violation of these restrictions by any person other than itself. In addition, nothing contained in this Declaration shall be deemed to be a representation by the Declarant with regard to the requirements of any governmental authority and it shall be the duty of each Owner to comply with any such requirements in addition to the provisions of this Declaration.

Section 6. Implied Rights. The Association may exercise any other right or privilege given to it expressly by the Governing Documents, or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it in this Declaration or reasonably necessary to effectuate any such right or privilege.

Section 7. No Partition. Except as is permitted in this Declaration or amendments thereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition, nor shall any Lot be resubdivided (except by the Declarant); provided that two (2) or more Lots may

be combined for a single Residence with the prior approval of the ACC, subject to all provisions hereof.

Section 8. Rule Against Perpetuities. In the event that any of the provisions of this Declaration are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then in that event, such term shall be reduced to a period of time which shall not violate the rules against perpetuities or any other law of the State of North Carolina, and such provision shall be fully effective for said reduced period of time.

Section 9. Binding Effect. The terms and provisions of this Declaration shall be binding on the Owners of the Lots, and their respective legal representatives, heirs, successors and assigns and shall run with and bind the Property. In addition, the terms and provisions of this Declaration shall inure to the benefit of and be enforceable by the Declarant, Association or Owner of any property subject to this Declaration, and their respective legal representatives, heirs, successors and assigns.

Section 10. Use of Name "Thistle Downs". The Declarant reserves the right to use the name "Thistle Downs" to refer to additional developments which may be developed by the Declarant within or adjacent to the Thistle Golf Club subdivision or community, whether or not such additional developments are subjected to this Declaration.

Section 11. Golf Club Property Owner. The Golf Club Property and the Golf Club significantly benefit the value of the Property and the value of the Lots within the Property. Accordingly, the Declarant and each Owner acknowledge that there is good and valuable consideration for the provisions in this Declaration that benefit the Golf Club Property. Accordingly, the Golf Club Property Owner is an express beneficiary of Article V, Section 4, Section 8, Section 20, Section 22, Section 23, Section 26, Section 30 and Section 37; Article VI, Section 11 and Section 12; Article VIII, Section 11e.; Article VIII, Section 7 and Section 13b.; Article IX, Section 4 and all of Article XI of this Declaration, and shall have the right to enforce the applicable provisions of such Articles.

Section 12. Right of Entry. The Association shall have the right, but not the obligation, to enter into any Lot or Residence for emergency and safety reasons, to abate nuisances (including, without limitation, false burglar alarms and responding to complaints) and to inspect for the purpose of ensuring compliance with the Governing Documents which right may be exercised by the Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

Section 13. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 14. Severability. Invalidation of any one of the terms and provisions of this Declaration by judgment or court order shall not affect any other provision which shall remain in full force and effect.

Section 15. Amendment.

a. Until the Turnover Date, the Declarant may amend this Declaration without the consent of any other Owner. After the Turnover Date, the Declarant may amend this Declaration at any time and from time to time without the consent of any other party only if such amendment is (i) necessary to bring any provision hereof into compliance with any applicable governmental permits, statutes, rule, requirement or regulation, or judicial determination; (ii) reflect any changes in the legal description of the Initial Property; (iii) necessary to enable any title insurance company to issue title insurance coverage on any Lot; (iv) to correct any stenographic, scrivener's or surveyor's error or any error of a like nature; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner thereof shall consent thereto in writing. After the Turnover Date, any other amendment shall require the affirmative vote or written consent, or any combination thereof, of Members holding at least seventy-five percent (75%) of the total votes in the Association. Any amendment to be effective must be recorded in the Public Records of Brunswick County, North Carolina.

b. If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent and no contrary provision in any mortgage or contract between the Owner and a third party will affect the validity of such amendment.

c. Notwithstanding anything to the contrary contained in this Declaration, no amendment may revoke, remove or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

Section 16. Effective Date. This Declaration shall become effective upon its recordation in the public records of Brunswick County, North Carolina.

Section 17. Rights of Mortgagees or Third Parties. Should a mortgagee or third party acquire the rights of the Declarant, by way of foreclosure or otherwise, in the Property or in adjoining or neighboring property contained within the property contiguous to the Property subject to this Declaration, as same may exist from time to time, it shall be allowed full use of all rights, easements, rights-of-way and utilities contained within the Subdivision for the purpose of serving such adjoining or neighboring areas. These rights shall also inure to the benefit of the Declarant should it retain or be the Owner of any portion of said property.

Section 18. Notice of Mortgagee. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage or deed of trust encumbering such Owner's Lot.

Section 19. Notice of Transfer. In the event that any Owner (other than the Declarant) desires to sell or otherwise transfer title of his or her Lot or Residence, such Owner shall give the Board of Directors at least seven (7) days' prior written notice of the name and address of the purchaser or transferee, the date on which such transfer of title is to take place, and such other

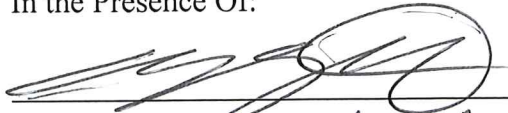
information as the Board of Directors may reasonably require. Until such written notice is received by the Board of Directors, the transferor shall remain jointly and severally liable with the transferee for all obligations of the Owner, including payment of all Assessments, notwithstanding the transfer of title to the Lot or Residence. The Association shall, to the extent permitted by law, have the right to require that such transfer of title not be made until any unpaid Assessments pertaining to such Lot are paid in full.

Section 20. Dissolution of Association. The Association shall not be dissolved nor shall it dispose of any real property contained within the Common Area by sale or otherwise (except to the Declarant or to an entity organized for the purpose of owning and maintaining such Common Areas), without the prior approval of all Owners, and any governmental agencies having jurisdiction over the Property.


IN WITNESS WHEREOF, DGH Thistle, LLC, a North Carolina limited liability company, as successor Declarant and Owner of all remaining Declarant properties, has caused this instrument to be executed this 2nd day of January, 2023.

In the Presence Of:

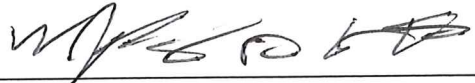
DGH THISTLE, LLC, a North Carolina limited liability company



Print Name: Albert Bustamante

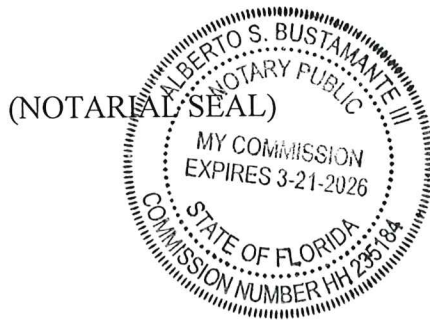


Print Name: Sandra Lowe

By: 
Its: Manager

STATE OF FLORIDA)
) ss.
COUNTY OF Orange)

The foregoing instrument was acknowledged before me by means of [X] physical presence or [] online notarization, this 2nd day of January, 2023, by William Jack Davis II of DGH THISTLE, LLC, a North Carolina limited liability company, on behalf of the company. He is personally known to me or has produced _____ as identification.





Notary Public
Printed Name: _____
My Commission Expires: _____

Exhibit "A"

All references are to the Brunswick County Registry.

PHASE ONE

All of that certain 31.654 acre, more or less, tract or parcel of land, as set forth on plat and survey of David M. Edwards, R.L.S., dated December 6, 2000, of record in the aforesaid Registry in Map Cabinet 23 at Page 388-389, previously conveyed to Premium Land, Inc. by deed December 13, 2000, and recorded in the aforesaid Registry in Book 1422 at Page 288.

This property constitutes Phase One of Thistle Downs Subdivision as referenced to in the plat map filed in Map Cabinet 24, Page 360-364.

Exhibit "B"

All references are to the Brunswick County Registry.

PHASE TWO

All of that certain 53.190 acre, more or less, tract or parcel of land, as set forth on plat and survey of David M. Edwards, R.L.S., dated June 26, 2001, of record in the aforesaid Registry in Map Cabinet 24 at Pages 301 through 304, inclusive.