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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
VALLEY SPRINGS**

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF
POLITICAL SIGNS AND THE FLAG OF THE UNITED STATES OF AMERICA
OR STATE OF NORTH CAROLINA**

Prepared by and return to:
SAB Valley Springs, LLC
5310 NC Highway 55, Suite 101
Durham, NC 27713

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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
VALLEY SPRINGS**

THIS DECLARATION is made as of the _____ day of _____, 2017 by **SAB VALLEY SPRINGS, LLC**, a North Carolina limited liability company, with reference to the following facts:

RECITALS

WHEREAS, Declarant is the owner of certain real property located in Durham County, North Carolina, and more particularly described in the Exhibit A attached hereto and incorporated herein by reference.

WHEREAS, Declarant is creating on the Property (as defined in Section 1.14 hereof) a Planned Community, as defined in the North Carolina Planned Community Act, which shall be a residential community of detached single family homes to be known as "Valley Springs".

WHEREAS, Declarant desires to provide for the preservation and maintenance of the Common Elements (also referred to as Common Areas) and for certain other responsibilities in connection with Valley Springs and to this end desires to subject the Property, together with such additions as may hereafter be annexed thereto, to the covenants, conditions, restrictions, and easements hereinafter set forth, each and all of which is and are for the benefit of Valley Springs and each Owner thereof.

NOW, THEREFORE, Declarant declares that all of the Property described above shall be held, sold, occupied and conveyed subject to the following covenants, conditions, restrictions and easements, all of which are for the purpose of protecting the value and desirability of, and which shall run with such real property, shall be binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. It is the intent of the Declarant that the provisions of this Declaration in all respects conform and comply to the requirements set forth in the North Carolina Planned Community Act, and to the extent any provision contained herein does not conform or comply with the North Carolina Planned Community Act, the provisions of the Act shall control.

ARTICLE 1- DEFINITIONS

The following terms shall have the following meanings when used in this Declaration:

1.01. Additional Property.

“Additional Property” means any real property that adjoins the boundaries of the Property described in Exhibit A, or whose boundary is within 8,000 feet of any boundary line of the Property described in Exhibit A, all or any portion of which may from time to time be made subject to this Declaration pursuant to the provisions hereof.

1.02. Approved Builder.

“Approved Builder” means Lennar Carolinas, Inc., a Delaware limited liability company or any entity to which the same assigns some or all of its Approved Builder rights/status by way of assignment (executed by assignor and assignee and approved by Declarant) recorded in the Office of the Register of Deeds of Durham County, North Carolina.

1.03. Association.

“Association” means Valley Springs Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and assigns. The Association shall have all powers set forth in §47F-3-102 of the Planned Community Act.

1.04. Board.

“Board” means the Board of Directors of the Association.

1.05. Bylaws.

“Bylaws” means the Bylaws of the Association, including any amendments thereto.

1.06. Common Elements.

“Common Elements” (also sometimes referred to as Common Areas) means all real property and real property interests (including improvements thereto) owned or leased by the Association, or owned by the Declarant to be ultimately conveyed to the Association, for the common use and enjoyment of the Owners, including the Recreational Common Area when conveyed to the Association. Common Elements will include easements, rights of way and similar estates owned or leased by the Association, but will not include the real property underlying such interests.

Common Elements will not include future Lots that may be platted from time to time by Declarant, in its sole discretion.

Declarant reserves the right, in its sole discretion, without the consent of the Association or its Members, to convey from time to time such additional Common Elements to the Association, which Common Elements may include portions of any additional land annexed by Declarant pursuant to Section 11.04 hereof, and the Association shall accept any such conveyance of additional Common Elements, and thereafter, such additional Common Elements shall be held and maintained by the Association.

1.07. County.

“County” means Durham County in the State of North Carolina.

1.08. Declarant.

“Declarant” means **SAB VALLEY SPRINGS, LLC**, a North Carolina limited liability company, and any successor or assign to whom Declarant assigns its rights and interests as Declarant hereunder in whole or in part by instrument recorded in the Register of Deeds for the County.

1.09. Declarant’s Development Period.

“Declarant’s Development Period” shall mean and refer to the Period of time commencing on the date of this Declaration and continuing until the first to occur of the following events:

(a) the later of 120 days following or the date of the annual meeting following the date upon which the Declarant or any affiliate of Declarant, or any successor Declarant, shall no longer own any Lot within the Property or any portion of the Property or any contractual right in any portion of the Property, including any Additional Property annexed or to be annexed pursuant to Section 11.04;

(b) thirty (30) years from the recording of this Declaration; or

(c) the date Declarant records a notice in the Register of Deeds for the County expressly terminating its Class B membership.

1.10. Dwelling.

“Dwelling” shall mean and refer to a detached single-family residence constructed on a Lot in the Property.

1.11. Lot.

“Lot” shall mean any separately numbered plot of land, regardless of size, as shown on a recorded subdivision plat of the Property. Common Elements are not Lots. Declarant reserves the right to reconfigure from time to time, without the consent of the Owners or the Members of the Association, the boundaries of any Lot or Lots owned by the Declarant to create additional Lots, to eliminate existing Lots or to create additional Common Elements, provided such changes comply with the requirements of the appropriate governmental authority. If Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by Declarant, Declarant shall record a revised plat of the affected Lot or Lots, and upon the recording by Declarant of a revised plat, each Lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat,

shall cease to be a "Lot" as defined in this Declaration, and each newly configured lot shown on the revised plat shall be a "Lot" as defined in this Declaration.

1.12. Member.

"Member" shall mean and refer to every person or entity entitled to membership with voting rights in the Association.

1.13. Owner.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers but excluding those having such interest merely as security for the performance of an obligation.

1.14. Planned Community Act.

"Planned Community Act" means the North Carolina Planned Community Act, codified as N.C. Gen. Stat. §47F.

1.15. Plat.

"Plat" or "Plats" shall mean any recorded graphic representation drawn to scale showing the location and geographic boundaries of individual lots, tracts, parcels, blocks, subdivisions, open spaces, rights of way, easements and, if applicable, common areas for all or portions of the subdivision, as approved by the City, as amended from time to time. The Declarant reserves the right to alter, modify or replat all or any portion of a subdivision Plat as it deems desirable in its sole discretion.

1.16. Property.

"Property" shall mean and refer to the land described in Exhibit A, which is herein made subject to this Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, including the Additional Property, as may be recorded by Declarant in its sole discretion.

1.17. Recreational Common Area.

"Recreational Common Area" shall mean and refer to that portion of the Property which Declarant may complete and convey or cause to be conveyed to the Association for the common use and enjoyment of its Members as recreational land, together with any and all improvements which may be constructed thereon, including but not limited to, a swimming pool, cabana, mail kiosk and tot lot. Declarant makes no representation, warranty or covenant that any Recreational Common Area or improvements thereon will be constructed or incorporated into the subdivision.

ARTICLE 2 - PROPERTY RIGHTS; COMMON ELEMENTS

2.01. Owners' Easements and Enjoyment.

Every Owner shall have a right and easement of enjoyment in and to the Common Elements, including a non-exclusive easement for ingress, egress and regress over the Common Elements to the extent necessary to provide access to his or her Lot, and for utilities serving that Lot, which shall be appurtenant to and shall pass with the title to every Lot, subject to the easements set forth in Article 8 hereof and to the other provisions of this Declaration.

2.02. Delegation of Use.

Any Owner may delegate his or her rights of use and enjoyment of the Common Elements to the members of his or her family, lessees, contract purchasers who reside on such Lot, or guests.

2.03. Rules and Regulations.

The Declarant during the Declarant's Development Period, and thereafter the Association acting through its Board, shall have the power to formulate, publish and enforce rules and regulations concerning the use and enjoyment of the Common Elements, including rules and regulations concerning parking and vehicular traffic flow. Such rules and regulations shall be maintained in a place reasonably convenient to the Members and available to them for inspection during normal business hours. The Association may impose reasonable monetary fines for the violation of established rules and regulations and for the violation of any of the covenants and conditions contained in this Declaration, which monetary fines shall be assessed and collected pursuant to the provisions of Articles 4 and 11 hereof. Any such fines shall be subject to the terms of the Planned Community Act. Copies of such rules and regulations and the amendments thereto shall be furnished by the Association to all Owners prior to the effective date thereof. All such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents.

2.04. Suspensions.

The Association shall have the power to suspend the voting rights of an Owner for any Period during which any assessment against his or her Lot remains unpaid, and, for a Period not to exceed sixty (60) days, for any infraction of its published rules and regulations. Any suspension shall be subject to the terms of the Planned Community Act including notice and opportunity to be heard. The Association also may levy reasonable fines against an Owner for any infraction of its published rules and regulations, subject to the terms of the Planned Community Act, including notice and opportunity to be heard. No such suspension or fine shall constitute a waiver or discharge of the Owner's obligation to pay assessments or abide by all published rules and regulations.

2.05. Mortgaging Common Elements.

The Association, acting through its Board, shall have the power to borrow money for the purpose of improving the Common Elements and facilities thereon and pursuant thereto to mortgage, pledge, grant a deed of trust, or hypothecate ("mortgage") the Common Elements, or any portion thereof, as security for money borrowed, provided, however, that any such action shall be taken only if persons entitled to cast at least eighty percent (80%) of the votes in the Association agree in writing to such action, provided, however, no mortgage, encumbrance or hypothecation or foreclosure of the lien thereby created shall cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances, and shall not interfere or obstruct utility service to, or ingress, egress, and regress to or from the Lots or the Common Elements, and provided further that for so long as Declarant shall own any portion of the Property, Declarant must also consent to such action.

In addition, any such mortgage given by the Association shall be subject and subordinate to any rights, interests, easements and privileges herein reserved or established for the benefit of Declarant, or any Lot or Lot Owner, or the holder of any mortgage irrespective of when executed given by Declarant or any Lot Owner encumbering any Lot or any other part of the Property, and any provision in this Declaration and in any such mortgage given by the Association to the contrary notwithstanding, the exercise of any rights by the holder of the mortgage in the event of a default thereunder shall not terminate or cancel any rights, easements or privileges herein reserved or established for the benefit of Declarant, or any Lot Owner, or the holder of any mortgage irrespective of when executed given by Declarant or any Lot Owner encumbering any Lot or other Property in Valley Springs.

2.06. Common Elements Dedication or Transfer.

The Association, pursuant to Section 47F-3-112 of the Planned Community Act, acting through its Board, shall have the right to dedicate or transfer fee title to all or any part of the Common Elements to any public agency, authority, or utility (including any entity authorized by the City of Durham or the County to supply cable television service), or to transfer to any other party for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless persons entitled to cast at least eighty percent (80%) of the votes in the Association agree in writing to such action, and by the Declarant if the Declarant then owns any Lot on the Property. No such dedication or transfer shall interfere with or obstruct utility service to, or ingress, egress and regress to or from the Lots or any remaining Common Elements, or deprive any Lot of its rights of support, or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances.

2.07. Encroachments.

The Association, acting through its Board, shall have the right to exchange portions of Common Elements with Declarant for substantially equal areas of Property for the purpose of eliminating unintentional encroachments of Dwellings or other improvements

onto portions of the Common Elements or for the purposes of enhancing the utility of the Common Elements to be retained by the Association.

2.08. Maintenance.

The Association shall maintain the Common Elements and facilities and improvements thereon, as hereinafter provided in Section 6.01. Any portion of the Common Elements for which insurance is required to be maintained by the Association under the Planned Community Act which is damaged or destroyed shall be repaired or replaced promptly by the Association except as otherwise provided in Section 47F-3-113 of the Planned Community Act.

2.09. Tenants.

(a) Any Owner who rents or leases his or her Lot to a tenant shall not be entitled to use and enjoy any recreational or other common facilities on the Common Area during the period the Lot is occupied by such tenant. The Common Area shall be available for use by a tenant during the tenant's leasehold.

(b) No Owner shall lease or rent less than an entire Lot and no more than one family related by blood or marriage, or one household unit of no more persons than the number of bedrooms in the residence located on the Lot, shall live in the residence located on any one Lot. Except as otherwise set forth in this Declaration, the Lots shall not be leased or rented for hotel or transient purposes and no rental agreement or lease shall be made for a period of less than twelve (12) months. Subject to the foregoing restrictions and to the limitations on rentals within the Community set forth in subsection (c) of this Section, Owners shall have the right to lease or rent their Lots, provided that any lease or rental agreement between an Owner and a tenant shall be in writing and shall provide that it is in all respects subject to the provisions of this Declaration, the Bylaws, and the Rules and Regulations and that any failure by the tenant to comply with such provisions shall be a default under the rental agreement or lease. However, the failure of any lease or rental agreement to so provide shall not excuse any person from complying with the provisions of this Declaration, the Bylaws, and the Rules and Regulations.

(c) In the event an Owner shall rent or lease his or her Lot such Owner shall immediately give to the Association in writing:

- (i) the name of the tenant and the Lot rented or leased;
- (ii) the current address of such Owner;
- (iii) a true and complete copy of the lease or rental agreement; and

(iv) the certification of the Owner that the tenant has been given a copy of this Declaration, any applicable amendments, the Bylaws and the Rules and Regulations and that such tenant has been advised of any obligations he may have thereunder as a tenant.

(d) In no event shall any lease or rental agreement release or relieve an Owner from the obligation to pay regular and special assessments to the Association, regardless of whether the obligation to pay assessments has been assumed by the tenant in such lease or rental agreement.

ARTICLE 3 – MEMBERSHIP AND VOTING RIGHTS

3.01. Members.

The Declarant, for so long as it shall be an Owner, and every person or entity who is an Owner of a fee simple or undivided fee simple interest in any Lot which is subject by covenants of record to assessments by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Ownership of such Lot shall be the sole qualification for membership, and no Owner shall have more than one membership except as expressly provided hereinafter. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. The Association may promulgate reasonable rules relating to the proof of ownership of a Lot.

3.02. Classes of Members and Voting Rights.

The Association shall have two classes of voting Members:

Class A. Class A Members shall be all Owners (including the Declarant). Class A Members shall be entitled to one (1) vote for each Lot in which they hold the required ownership interest. When more than one person or entity holds the required ownership interest in a Lot, all such persons or entities shall be Members. The vote for each such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot, and no fractional votes may be cast.

Class B. The Class B Members shall be the Declarant or its designated assign and Approved Builder. Each of the Class B Members shall be entitled to ten (10) votes for each vote held by Class A Members during the Declarant's Development Period. Thereafter, the Class B Member will exercise votes only as to its Class A Memberships.

Members are divided into Class A and Class B Members for the sole purpose of computing voting rights and shall not vote as a class. Owners of Lots in all phases shall have the same voting rights.

3.03. Right of Declarant to Select Members of the Board of the Association.

Notwithstanding anything contained herein to the contrary, Declarant (or the assignee of the right granted in this Section) during the Declarant's Development Period shall have the right to designate and select all of the persons who shall serve as members

of the Board of the Association. Whenever Declarant shall be entitled to designate and select any person or persons to serve on the Board of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation or Bylaws. Declarant shall have the right to remove any person or persons selected by it to act and serve on the Board and to replace such person or persons with another person or persons by it to act and serve in the place of any member of the Board so removed for the remainder of the unexpired term of office of any member of the Board removed. Any Member designated and selected by Declarant need not be an Owner. Any representative of Declarant serving on the Board of the Association shall not be required to disqualify himself or herself from any vote upon any contract or matter between Declarant and the Association where Declarant may have a pecuniary or other interest. Similarly, Declarant, as a member of the Association, shall not be required to disqualify itself upon any vote upon or entrance into any contract or matter between Declarant and the Association where Declarant may have a pecuniary or other interest. The method of electing, removing and replacing members of the Board not appointed by the Declarant shall be as provided in the Articles of Incorporation and/or Bylaws.

ARTICLE 4 – COVENANTS FOR ASSESSMENTS

4.01. Creation of the Lien and Personal Obligation for Assessments.

The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay:

- (a) to the Association:
 - (i) annual and other assessments and charges provided for herein, together with interest and late fees, costs and reasonable attorneys' fees,
 - (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided, and
- (b) to the appropriate governmental taxing authority:
 - (i) a pro rata share of ad valorem taxes levied against the Common Elements, and
 - (ii) a pro rata share of assessments for public improvements to or for the benefit of the Common Elements if the Association shall default in the payment of either or both for a period of six (6) months.

All assessments and charges provided for herein, together with interest, any late fees, costs and reasonable attorneys' fees, shall be a charge on the land and shall constitute a continuing lien upon the property against which each such assessment is made when a claim of lien is filed of record in the Office of the Clerk of Superior Court, Durham County,

North Carolina. Each such assessment and charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such property at the time when the assessment became due. The personal obligation for the delinquent assessments shall not pass to his or her successors in title unless expressly assumed by them.

4.02. Purpose of Assessments.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Elements, including but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, and the payment of taxes assessed against the Common Elements, the maintenance of water and sewer mains in and upon the Common Elements (if not maintained by the utility provider), the maintenance of open spaces and streets which have not been accepted for dedication by a public authority, roadway medians and islands, drives and parking areas within the Common Elements, the procurement and maintenance of liability insurance in accordance with this Declaration or Bylaws, the maintenance of entranceways, landscaping and lighting of Common Elements, road medians and islands and entranceways, the cost of leasing, owning, operating, maintaining and repairing any street lights erected by the Association or the Declarant in the streets (whether public or private), or other Common Elements, or in any other easement provided therefor within the Property, the payment of assessments for public and private improvements made to or for the benefit of the Common Elements, charges for garbage collection services furnished to the Lots, the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Elements, the employment of attorneys and other agents to represent the Association when necessary, the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible, and for such other needs as may arise.

(b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Elements and those other portions of the Property which the Association may be obligated to maintain such reserve fund is to be established out of regular assessments for common expenses.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operation and managing the Property, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, and the Articles of Incorporation and the Bylaws. As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be

held for the benefit of the Members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his or her Lot. When any Owner shall cease to be a Member of the Association by reason of his or her divestment of ownership of his or her Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Property.

4.03. Adoption of Budget and Fixing of Annual Assessments; Annual Assessment and Annual Meeting.

(a) At least thirty (30) days in advance of each annual assessment period, the Board shall establish an annual budget and fix the amount of the annual assessments in advance for the following year. Within thirty (30) days of the adoption of any proposed budget, the Board shall provide to all of the Owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The Board shall set a date for the annual meeting of the Owners to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting the Owners of a majority of the Lots reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board. The failure to receive such notice shall in no way affect the obligation of each Owner therefor or the lien therefor as provided herein.

(b) Until December 31 of the year of the conveyance of the first Lot to an Owner, the annual assessment for each Lot shall be **Five Hundred Seventy Five and No/100 Dollars (\$575.00) a year, or One Hundred Forty Three and 75/100 Dollars (\$143.75.00) per quarter.** The annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter shall be established by the Board and may be increased by the Board without approval by the membership by an amount not to exceed fifteen percent (15%) of the annual assessment of the previous year. The annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter may be increased without limit by a vote of the Members entitled to cast at least two-thirds (2/3) of the votes of the Members of the Association who are voting, in person or by proxy, at a meeting duly called for this purpose, provided, however, if Declarant then owns a Lot, Declarant must also consent to such action.

(c) The Board may fix the annual assessment at an amount not in excess of the amount permitted in this Section 4.03 (subject to the provisions of Section 4.06).

4.04. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized hereinabove, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided, however, if Declarant then owns a Lot, Declarant must also consent to such action. All special assessments shall be fixed at a uniform rate for all Lots (subject to the provisions of Section 4.06) and may be collected on a monthly, quarterly or semi-annual basis, as determined by the Members approving such assessments.

4.05. Notice and Quorum for Any Action Authorized Under Sections 4.03 and 4.04.

Written notice of any meeting called for the purpose of taking any action authorized under Section 4.03 or 4.04 shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast ten percent (10%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.06. Rate of Annual Assessment; Exclusions.

Both the annual and special assessments must be fixed at a uniform rate for all Lots, provided, however, no assessment shall be due (a) if there is not a Dwelling on a particular Lot or (b) if a Dwelling on any Lot owned by Approved Builder, Declarant, or assignee of Declarant's development rights is unoccupied as a residence. Notwithstanding the foregoing, assessments shall be due on any Lot that is owned by Approved Builder or Declarant for a period of at least two (2) consecutive years.

4.07. Date of Commencement of Annual Assessments; Due Dates.

The annual assessments provided for herein shall commence as to a particular Lot on the day of the conveyance by Declarant or Approved Builder of that Lot to an Owner (other than Declarant or Approved Builder). Notwithstanding the foregoing, in the event Approved Builder owns a Lot for at least two (2) consecutive years, then annual assessments shall commence with respect to such Lot on the two (2) year anniversary of Approved Builder's acquisition of the Lot. Likewise, if Declarant owns a Lot for two (2) consecutive years, then annual assessments shall commence with respect to such Lot on the two (2) year anniversary of such Lot being annexed into this Declaration. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The due dates shall be established by the Board. Annual assessments may be collected on a monthly, quarterly, semi-annual or annual basis, as determined by the

Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

4.08. Working Capital Assessment.

In addition to the annual assessments authorized above, at the time of the closing of the first sale of each Lot by Declarant or Approved Builder to a purchaser (other than an Approved Builder), the purchaser shall pay to the Association an amount equal to the greater of Two Hundred Fifty and No/100 Dollars (\$250.00). Such funds shall be used by the Association to establish a Working Capital Fund, the purpose of which is to insure that the Association will have sufficient monies available to meet its initial operational needs. No such payments made into the Working Capital Fund shall be considered an advance or current payment of regular assessments. All monies paid into the Working Capital Fund shall be held and administered by the Association in accordance with the terms of the Declaration and the Bylaws.

4.09. Effect of Nonpayment of Assessments; Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate from time to time established by the Association, not to exceed eighteen percent (18%) per annum. In addition, the Association may charge a reasonable late fee, the amount of which shall be established from time to time by the Board of the Association, in compliance with Section 47F-3-102(11) of the Planned Community Act, for assessments not paid within thirty days after the due date. After notice and an opportunity to be heard, the Association may suspend privileges or services provided by the Association (except rights of access to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer, which suspension may continue without further hearing until the delinquency is cured. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in compliance with Section 47F-3-116 of the Planned Community Act, and interest, costs and reasonable attorneys' fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of any of the Common Elements or abandonment of his or her Lot nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

4.10. Effect of Default in Payment of Ad Valorem Taxes or Assessments for Public Improvements by Association.

Upon default by the Association in the payment to the governmental authority entitled thereto of any assessments for public improvements or ad valorem taxes levied against the Common Elements, which default shall continue for a period of six (6) months, each Owner of a Lot in the Property shall become personally obligated to pay to the taxing

or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the Property. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his or her heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

4.11. Subordination of the Lien to Mortgagees; Foreclosure of First Mortgages.

The lien provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust, and subordinate to ad valorem property taxes. When the holder of a first mortgage or first deed of trust of record, or other purchaser of a Lot, obtains title to the Lot as a result of foreclosure of a first mortgage or first deed of trust or deed in lieu of foreclosure, such purchaser and its heirs, successors and assigns, shall not be liable for the assessments against such Lot which become due prior to the acquisition of title to such Lot by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all Owners, including such purchaser, its heirs, successors and assigns. Such sale or transfer of any Lot which is subject to any such first mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer, provided, however, no such sale or transfer shall relieve such Lot or the Owner thereof from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or first deed of trust.

4.12. Exempt Property.

All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE 5 - ARCHITECTURAL CONTROL

5.01. Improvements.

No construction, improvements, alteration, repair, change in paint color, excavation, change in grade, exterior lights, fencing, planting, landscaping or other work (including, without limitation, yard ornaments, bird baths and feeders, flower boxes, mailboxes and similar items) which in any way alters the exterior of any Lot or the improvements located thereon from their natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant or Approved Builder to an Owner (other than Approved Builder) shall be commenced, erected or maintained upon any Lot, and no building, shed, fence, wall, residence or other structure shall be commenced,

erected, maintained, improved, altered or removed, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant during the Declarant's Development Period and thereafter by the Board or by an architectural committee composed of three (3) or more representatives if appointed by the Board (the "Architectural Control Committee"). Landscaping improvements or plantings of flowers, shrubs and trees by the Owner shall require approval by the Declarant during the Declarant's Development Period and thereafter by the Board or the Architectural Control Committee, if appointed. Nothing herein contained shall prevent or interfere with the right of Declarant to improve and develop the Property, including the Lots, as Declarant chooses. Accordingly, Declarant need not seek or obtain the approval of the Board or the Architectural Control Committee for improvements erected on the Property by or at the direction of Declarant. Further, Approved Builder need not seek or obtain the approval of the Declarant, the Board or the Architectural Control Committee for improvements erected on the Lots by or at the direction of Approved Builder. Approved Builder and all construction by Approved Builder shall be exempt from any architectural or design review, approval or other requirements under this Article V until such time as a Dwelling constructed by Approved Builder on a Lot is sold and conveyed with the Lot to an Owner other than Approved Builder or Declarant.

5.02. Procedures.

(a) Except as set forth in Section 5.01 above, any person desiring to make any improvement, alteration or change described in Section 5.01 above shall submit the plans and specifications therefor, showing the nature, kind, shape, height, materials and location of the same, to the Declarant during the Declarant's Development Period and thereafter by the Board or the Architectural Control Committee, if appointed, which shall evaluate such plans and specifications in light of the purposes of this Article.

(b) Upon approval of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specifications, as approved, shall be deposited for permanent records of the Association and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specifications shall not be deemed a waiver of the right of the Declarant, Board, or Architectural Control Committee, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications as approved. For any request made under this Article, the Association may require that the Owner requesting such change be liable for any cost of maintaining, repairing and insuring the approved alteration. If such condition is imposed, the Owner shall evidence consent thereto by a written document in recordable form satisfactory to the Association. Thereafter, the Owner, and any subsequent

Owner of the Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, are deemed to covenant and agree that the cost of maintaining, repairing and insuring such alteration shall be a part of the annual assessment or charge set forth herein, and subject to the lien rights described herein.

(c) Neither Declarant, nor any other member of the Board or Architectural Control Committee shall be responsible or liable in any way for any defects in any plans or specifications approved by them, nor for any structural defects in any work done according to such plans and specifications. Further, neither Declarant, nor any member of the Board or Architectural Control Committee, shall be liable in damages to anyone by reason of mistake in judgment, negligence, misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications or the exercise of any other power or right provided for in this Declaration. Every person who submits plans or specifications for approval agrees, by submission of such plans and specifications, and every owner of any Lot agrees, that he or she will not bring any action or suit against Declarant, or any member of the Association's Board or Architectural Control Committee, to recover any such damage.

ARTICLE 6 - MAINTENANCE

6.01. Maintenance to be Performed by the Association.

The Association shall maintain the Common Elements in an attractive and well-kept condition, consistent with all requirements of the City of Durham, including regulations of the stormwater maintenance system, greenways, tree coverage areas, and other aspects of the Common Elements governed by the City of Durham. In addition, the Association (a) shall maintain, repair and replace waterlines, sanitary sewer lines and other utilities located in the Common Elements which are not maintained by the applicable public utility, and (b) shall maintain all entrances and signage located at the entrances. In the event that the need for any maintenance, repair or replacement required hereunder to be performed by the Association is caused by the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such Lot is subject.

The Owner of any Lot may plant flowers, shrubbery or trees on his or her Lot only with the prior written consent of the Association, as provided in Section 5.01. No such plantings by an Owner shall reduce the assessment payable by the Owner to the Association.

6.02. Maintenance to be Performed by the Owners.

Each Owner shall be responsible for the repair, maintenance and upkeep of the exterior of the Dwelling on such Lot, together with all improvements located on the Lot, including, but not limited to, any and all vegetation, driveways, sidewalks (excluding public sidewalks), walls, glass surfaces, window and door screens, patios, decks, basement,

slab and crawl space areas, and any other exterior improvements approved pursuant to Article 5. The external appearance of all such repairs, maintenance and upkeep shall be subject to the provisions of this Declaration. Each Owner shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of the interior of the Dwelling, of all glass surfaces, window or door screens, any doors and storm doors (any such installation being subject to Article 5 hereof), air conditioning and heating equipment of the Dwelling.

The Owner shall also maintain, repair and replace, unless the obligation of the Association under Section 6.01 above, all utility lines, fixtures and/or their connections on the Owner's Lot which are required to provide water sewer, power, gas, telephone, cable television and any other utilities to his or her Lot which are not publicly maintained.

In the event that the Owner neglects or fails to provide such maintenance in a manner consistent with other Lots and Dwellings within the Property, the Association may provide such maintenance, and all cost incurred by the Association in providing such maintenance, plus a service charge of twenty percent (20%) of such costs shall be added to the annual assessment for such Lot and subject to the lien rights described in Article 4, provided, however, that the Association shall first give written notice to the Owner of the specific items of exterior maintenance or repair the Association intends to perform and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance himself or herself. The determination as to whether an Owner has neglected or failed to maintain his or her Lot and/or Dwelling in a manner consistent with other Lots and Dwellings within the Property shall be made by the Board of the Association, in its sole discretion.

6.03. Easement to Perform Maintenance.

In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

ARTICLE 7 - USE RESTRICTIONS

7.01. Land Use.

Except as otherwise provided in this Declaration, each Lot shall be used solely for the construction and single-family occupancy of a residence and for no other purpose. When used herein, "single-family occupancy" shall mean occupancy by (a) an individual and the individual's children and/or parents, or (b) two or more persons related by blood, marriage, adoption, guardianship, or duly-authorized custodial relationship and their children and/or parents, or (c) any two unrelated persons and the children and/or parents related to either of them, or (d) a group of no more unrelated persons than the number of bedrooms in the residence located on the lot, living together as a single housekeeping unit. A group of unrelated persons will be deemed to be living together as a "single housekeeping unit" when the occupants have a family-like structure,

and/or a sharing of responsibility associated with the household such as equitable rent, use of space, etc. This definition is intended to exclude (i) any group whose association is temporary or seasonal in nature, such as a group of college students sharing a house, and (ii) any group providing a framework for transients or transient living.

Except as otherwise provided in this Declaration, no Owner shall use or cause or permit his or her Lot to be used for any business, commercial, manufacturing or mercantile use or purpose, or for any other nonresidential use or purpose, except that an Owner residing in a dwelling on a Lot may conduct business activities within the dwelling as long as:

- (a) The existence or operation of the business is not apparent or detectable by sight, sound or smell from outside the dwelling;
- (b) The business activity conforms to all zoning requirements for the Property;
- (c) The business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property;
- (d) The business activity is consistent with the residential character of the Property and does not constitute a nuisance, a hazardous or offensive use or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board.

The term “business” and “trade” as used in this Section shall be construed to have the ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether:

- (a) such activity is engaged in full or part time;
- (b) such activity is intended or does generate a profit; or
- (c) a license is required therefor.

This Section shall not apply to any activity conducted by (a) the Declarant with respect to its development and sale of the Property or its use of any Lots that it owns within the Property; or (b) Approved Builder with respect to its construction, marketing, and sale of any Lots that it owns within the Property.

The foregoing provisions of this Section or any other provision of this Declaration notwithstanding, Declarant and Approved Builder shall have an easement to maintain sales and construction offices (which may be trailers or temporary or permanent buildings) and models for sales of Lots throughout the Property. Declarant and Approved Builder shall have the right to relocate, and to discontinue and re-establish, sales and construction offices

and models within the Property from time to time until all of the Lots have been conveyed to Owners other than Declarant or Approved Builder. Declarant and Approved Builder also shall have the right to change use or combination of uses of such offices or models, provided that such offices or models shall be used only for sales and construction offices or models.

7.02. Dwelling Specifications.

No Dwelling shall be erected or allowed to remain on a Lot if the heated area of the main structure, exclusive of open porches, decks and garages, shall be less than two thousand two hundred (2,200) square feet. Both the Declarant and the Board of the Association shall have the right to waive minor violations of, and allow minor variances from, the restrictions contained in this Section 7.02, where the same resulted unintentionally or without gross carelessness on the part of any Owner (including, without limitation, Declarant and Approved Builder) and is not materially harmful to the Property. Any such waiver granted shall be in writing, and any matter so waived shall no longer be deemed a violation of these covenants.

7.03. Nuisance.

No noxious or offensive activity shall be conducted upon any Lot or the Common Elements nor shall anything be done thereon which may be or become an unreasonable annoyance, inconvenience or nuisance to the residents of the subdivision or unreasonably interferes with the quiet enjoyment of occupants of Lots. No Owner shall permit anything to be done or kept on his or her Lot which would result in the cancellation of insurance on any other residence or any party of the Common Area or which would be in violation of any law. The Board may establish reasonable rules and regulations for enforcing the provisions of this Section.

7.04. Signs.

Except for signs erected by Declarant, Approved Builder or the Association within the Common Elements and signs erected by Declarant or Approved Builder on Lots owned or leased by Declarant or Approved Builder (as applicable) advertising the sale, lease or other promotion of Lots within the Property, no sign shall be placed or allowed to remain on any Lot except for one (1) "For Sale" sign of such size as the Board may approve. No sign deemed by Declarant or the Association to be a nuisance or a detriment to the Property shall be permitted or allowed to remain on any Lot within the Property. For political signs, see Section 7.09 below. Notwithstanding the foregoing, Declarant and Approved Builder shall have the right to erect and maintain signs of any type and size on any Lot which it owns and on the Common Elements, in connection with the development, marketing and sale of Dwellings on Lots within Valley Springs.

7.05. Outside Antennas and Satellite Dishes.

No outside antennas or satellite dishes and no free standing transmission or receiving towers shall be erected on any Lot or Common Elements within the Property without the prior written permission of the Board or the Architectural Control Committee, subject to federal regulations governing any such antennas and satellite dishes.

7.06. Animals.

No animals, livestock or poultry of any kind shall be raised or kept on any Lot, except that dogs, cats or other household pets may be kept on Lots provided that said animals are kept in compliance with applicable local ordinances and are not kept for commercial purposes, and further provided that they are kept and maintained in compliance with (i) all laws and ordinances of the City of Durham, Durham County or the State of North Carolina relating thereto, and (ii) such rules and regulations pertaining thereto as the Board may adopt from time to time. Each Owner owning or having possession, charge, care, custody or control of any dog shall keep such dog exclusively upon his or her Lot and housed in the Owner's Dwelling, provided, however, that such dog may be temporarily off the Lot if it is under the control of a competent person and restrained by a leash or other means of adequate physical control. Each Owner will be responsible for cleaning up any and all waste deposited by his or her animal upon any Lot or Common Elements.

7.07. Garbage and Refuse Disposal.

No Lot shall be used or maintained as a dumping ground for rubbish, and all trash, garbage or other waste shall be stored in sanitary containers in accordance with the rules and regulations of any health or public safety authority having jurisdiction over the Property. The sanitary container only shall be placed outside, at the earliest, the evening before garbage pickup day and shall be promptly removed from the street and placed at the side or rear of the Dwelling after garbage has been picked up. No trash, garbage or other waste may be placed within the Common Elements, except in containers approved by the Board.

7.08. Parking and Garages.

The Association, acting through its Board, shall have the power to formulate, publish and enforce rules and regulations concerning parking on the Common Elements or other parts of the Property, as provided in Section 7.03, and may have towed at the Owner's expense any vehicle which is parked in an area where parking is not then permitted.

Any boats, boat trailers, motorcycles, mopeds, campers or recreational vehicles must be parked solely in garages.

Garage doors are required for garages. All ducts, pipes and wiring in garages shall be concealed from view above the level of the finished ceiling. For aesthetic purposes, all garage doors shall remain closed whenever possible. Carports are not allowed. The Board may establish reasonable rules and regulations for enforcing the provisions of this Section.

7.09. Flags and Political Signs.

Section 47F-3-121 of the Planned Community Act applies to Valley Springs. The Association shall enact rules and regulations governing flags and political signs consistent with Section 47F-3-121.

7.10. Irrigation.

Section 47F-3-122 of the Planned Community Act applies to Valley Springs. The Association shall enact rules and regulations governing irrigation of landscaping consistent with Section 47F-3-122. Any requirement to irrigate landscaping shall be suspended during periods of mandatory water conservation measures as provided in Section 47F- 3-122. No Owner may drill or use a private well for irrigation. All irrigation shall use municipal water as the source of the water supply.

7.11. Tree Protection.

The Valley Springs subdivision is subject to the “Tree Protection and Tree Coverage” provisions of the City of Durham Unified Development Ordinance (“UDO”). The Association and the Lot Owners shall abide by all provisions regarding the Tree Protection and Tree Coverage provisions as contained in the UDO and as referenced on the Plats.

7.12 No Access to Rose of Sharon Road.

Unless expressly permitted in writing by Declarant and all applicable governmental authorities, none of the Lots shall have direct vehicular access to or from the right-of-way of Rose of Sharon Road or Valley Springs Road.

ARTICLE 8 - EASEMENTS

8.01. Utility and Drainage Easements; Services to Lots.

An easement is hereby established for the benefit of the City of Durham (and any other person or firm providing services to the Property under agreement with or at the direction of the Association) over all Common Elements as may be reasonably necessary for the setting, removal and reading of water meters, the maintenance and replacement of water, sewer and drainage facilities, the fighting of fires, the collection of garbage, and the delivery of mail. The Association and the Declarant shall have the power and the authority to grant and establish upon, over and across the Common Elements such additional easements as are necessary or desirable for the providing of service or utilities to the Common Elements or Lots. The Declarant, the Association and Approved Builder hereby reserve easements for the installation and maintenance of driveways, walkways, water, gas, telephone, cable television and electric power transmission lines, sanitary sewer and storm water drainage facilities, and for other public utility installations are reserved/granted on the recorded plats for Valley Springs. Within any such easements herein reserved, no

structure, planting or other material shall be placed or permitted to remain which may interfere with the installation or maintenance of the utilities installed thereon.

8.02. Sign and Landscaping Easements.

The Association shall maintain all subdivision signs and landscaping, irrigation and lighting surrounding same now or hereafter erected within the Common Elements. The costs of all maintenance, repair and replacement of such signs, landscaping and lighting shall be part of the common expenses of the Association, payable by the Owners as set forth in Article 4 hereof. Further, during the Declarant's Development Period, Declarant shall have (i) the right to erect within the Common Elements additional subdivision signs and landscaping and lighting surrounding the same to be maintained by the Association as herein provided and (ii) the right to erect within the Common Elements signs advertising the sale and promotion of Lots. Approved Builder shall have the right to erect advertising and promotional signage within the Common Elements and on Lots owned by Approved Builder as determined by Approved Builder without the approval or consent of Declarant, the Board or Architectural Review Committee.

8.03. Easements Reserved by Declarant and Approved Builder.

Declarant and Approved Builder hereby reserve such easements on, across and over the Common Elements as shall be reasonably necessary for (i) the exercise by Declarant or Approved Builder of any right herein reserved, and (ii) the purpose of development activities and construction of improvements within the Property, including the temporary storage of construction materials on the Common Elements.

8.04. Additional Drainage Easements.

In order to implement effective and adequate erosion control, the Association shall have the right to enter upon any portion of the Property before and after improvements have been constructed thereon for the purpose of performing any grading or constructing and maintaining erosion prevention devices, provided, however, no such activities shall interfere with any permanent improvements constructed on the Property.

8.05. Encroachments.

In the event that any improvements on a Lot shall encroach upon any Common Elements or upon any other Lot as a result of the initial improvements constructed by Declarant or for any reason not caused by the purposeful or negligent act of the Owner or agents of such Owner, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Common Elements or other Lot for so long as such encroachment shall naturally exist, and, in the event that any portion of the Common Elements shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Common Elements into any such Lot for so long as such encroachment shall naturally exist.

8.06 Greenway Easements.

The Declarant may, but shall not be obligated to, dedicate such portions of the Property for greenway easements, as such shall be shown on Plats, and Declarant or the Association may set forth permitted and prohibited uses for such greenways.

ARTICLE 9 – OBLIGATIONS REGARDING STORMWATER FACILITIES

9.01. Stormwater Facilities.

The property includes one or more storm water management facilities (hereafter “Facility/ies”) that is/are the perpetual responsibility of the Association. Such Facilities are the subject of a Stormwater Facility Agreement and Covenants (“Stormwater Agreement”) between Declarant, the Association, and the City of Durham (the “City”) that is binding on the Association. The Property subject to that Stormwater Agreement is the “Property” referred to in this Article. The Stormwater Facilities must be maintained in accordance with City requirements (“City Requirements”), which include all ordinances, policies, standards, and maintenance protocols and in accordance with the recorded Stormwater Agreement. In particular, the City's current “Owner's Maintenance Guide for Stormwater BMPs Constructed in the City of Durham” (available at the time of recording this document at http://www.durhamnc.gov/departments/works/pdf/draft_owners_maint_guide.pdf) and the operation and maintenance manual prepared specifically for the Facilities contain requirements that apply to the Association's Facilities.

Nothing in this remaining Article (the following referred to herein as “Restrictive Covenants”) filed by Declarant as part of this Declaration or any subsequent modifications of this Declaration may reduce the Association's or Lot Owners' obligations with regard to the Facilities. Such additional covenants may increase the obligations or provide for additional enforcement options.

The Stormwater Facilities and their locations are as follows: The area designed on the Plat as SCM Access and Maintenance Easement off Valley Rose Way, Durham, NC.

In addition to the aforementioned obligations, the Association's obligations with regard to the Facilities shall be as follows in this Article.

9.02. Inspections/Routine Maintenance.

In accordance with City Requirements, the Association shall cause the Facilities to be inspected (i) annually, and (ii) after major storm events that cause visual damage to the Facility, and (iii) upon notification from the City to inspect. The inspection shall be performed by a registered North Carolina Professional Engineer or a North Carolina Registered Landscape Architect certified by the City who shall document those things mandated under City Requirements. The inspection shall occur annually during the month in which the Facility/ies as-built certification was accepted by the City, which month may be determined through contact with the City of Durham Department of Public Works,

Stormwater Division. The inspection shall be reported to the City as further described below.

9.03. Repair and Reconstruction.

The Association shall repair and/or reconstruct the Facility/ies as it determines is necessary, and, at a minimum, as set forth in City Requirements or as directed by the City to allow the Facility/ies to function for its intended purpose, and to its design capacity. The Association shall provide written reports regarding major repair or reconstruction to the City in accordance with City Requirements.

9.04. Stormwater Budget Line Items & Funding.

The dues of the Association shall include amounts for upkeep and reconstruction of the Facilities which shall be included in dues charged to Lots or members from the point that Lots or members are charged dues for other common purposes. The Association shall maintain two (2) separate funds in its budget for the Facility/ies. The first, the "Inspection and Maintenance Fund," shall be for routine inspection and maintenance expenditures and shall be used for annual inspections, maintenance, and minor repairs. The funds for this purpose may be maintained as part of the Association's general account. The second fund, the "Major Reconstruction Fund," shall be a separate, increasing reserve fund that will build over time and provide money for major repairs to and eventual reconstruction of the Facility/ies. The Major Reconstruction Fund shall be maintained in an account that is separate from the Association's general account as described below. At a minimum, the Association shall, annually, earmark \$ **2,975.00** from its collected dues for the Routine Maintenance and Inspection Fund and \$ **705.00** from its collected dues for the major Reconstruction Fund. These minimum amounts shall be increased annually by 3% per year over the prior year's amount. The Association may set a higher amount in its discretion, or if directed by the Durham Director of Public Works after an examination of the Facility/ies. The Association shall set dues at a sufficient amount to fund each of the two line items in addition to the Association's other obligations. The Association may compel payment of dues through all remedies provided in these Restrictive Covenants or as otherwise available under law.

9.05. Assessments/Liens.

In addition to payment of dues, each Lot shall be subject to assessments by the Association for the purpose of fulfilling the Association's obligations under this Article and under the Stormwater Agreement. Such assessments shall be collected in the manner set forth in these Restrictive Covenants. As allowed under North Carolina Gen. Stat. Section 47F, or successor statutes, all assessments remaining unpaid for thirty (30) days or longer shall constitute a lien on the Lot. Such lien and costs of collection may be filed and foreclosed on by the Association. In addition, the Association's rights may, in the discretion of the City, be exercised by the City, as a third party beneficiary of the recorded Stormwater Agreement and/or as Attorney in Fact for the Association, as provided in the Stormwater Agreement.

9.06. Stormwater Expenditures Receive Highest Priority.

Notwithstanding any contrary provisions of the Restrictive Covenants of which this Article is a part, to the extent not prohibited by law, the inspection, maintenance, repair, and replacement/reconstruction of the Facility/ies shall receive the highest priority (excluding taxes and assessments and other statutorily required expenditures) of all Association expenditures.

9.07. Separate Account for Major Reconstruction Fund; Engineer's Report.

The Association shall maintain the Major Reconstruction Fund for the Facility/ies in an account separate from the Association's general account. The Association shall use the Fund only for major repairs and reconstruction of the Facility/ies. No withdrawal shall be made from this fund unless the withdrawal is approved by two Association officials who shall execute any documents allowing such withdrawal. Prior to withdrawing funds from this account, the Association shall (i) obtain a written report from an engineer approved in accordance with City Requirements regarding repairs or reconstruction needed and approximate cost of such repair or reconstruction, and (ii) submit such report to the Director of the City's Department of Public Works, and notify the Director of the repairs or reconstruction to be undertaken on the Facility, the proposed date, and the amount to be withdrawn from the Major Reconstruction Fund. In the event of an emergency, withdrawal and expenditure of funds may be made after telephone notification to the Stormwater Services Division of the Department of Public Works.

9.08. Annual Reports to City.

The Association shall provide to the City annual reports in substance and form as set forth in the City Requirements. This annual report shall be signed by an officer of the Association, who shall attest as to the accuracy of the information in such report. If prepared by a professional management company hired to manage the Association's affairs, the report shall so indicate. The Officer's signature and attestation shall be notarized.

At a minimum each report shall include:

- (a) the annual Facilities inspections report described in Section 9.02 above, and
- (b) a description of repairs exceeding normal maintenance that have been performed on the Facility/ies in the past year, and the cost of such repairs.

9.09. Facility/ies to Remain with Association; Lot Owners' Liability.

To the extent not prohibited by law, the Facility/ies shall remain the property of the Association and may not be conveyed by the Association. In the event the Association ceases to exist or is unable to perform its obligations under this Agreement, all Lot Owners

as defined in the Stormwater Agreement referenced above, excluding the Lots owned by the Association, shall be jointly and severally liable to fulfill the Association's obligations under this Agreement. Such Lot Owners shall have the right of contribution from other Owners with each Lot's pro rata share being calculated as Lot Owner's proportional obligations are otherwise defined in these Restrictive Covenants. The City may also exercise the rights described in the Stormwater Agreement and other remedies provided by law.

9.10. City Rights; Liens Against Owners.

In addition to rights granted to the City by ordinance or otherwise, the City shall have the following rights, generally summarized below, and more explicitly set forth in the Stormwater Agreement referenced above:

(a) Direct the Association in matters regarding the inspection, maintenance, repair, and/or reconstruction of the Facilities,

(b) If the Association does not perform the work required by ordinance, by these Restrictive Covenants, and by the Stormwater Agreement referenced above, do such work itself, upon 30 days' written notice to the Association,

(c) Access the Facility/ies for inspection, maintenance, and repair, crossing as necessary the Lot(s) on which the Facility/ies are located and all other private and public easements that exist within the Property subject to these Restrictive Covenants,

(d) Require reimbursement by the Association of the City's costs in inspecting, maintaining, repairing, or reconstructing the Facility/ies, as provided in the Stormwater Agreement referenced above,

(e) Enforce any debts owed by the Association as described in the Stormwater Agreement referenced above against Lot Owners if such debts are not fully paid by the Association. The debt may be allocated to Lot Owners as provided in the other Sections of these Restrictive Covenants, and may be made a lien on each Owner's property, may be added to each Owner's utility bills, and may result in foreclosure, as provided in Section 7 of the Stormwater Agreement referenced above.

9.11. No Dissolution.

To the extent not prohibited by law, the Association shall not enter into voluntary dissolution unless the Facility is transferred to a person who has been approved by the City and has executed a Stormwater Agreement with the City assuming the obligations of the Association. Under the Stormwater Agreement referenced above, individual Lots and Lot Owners continue to be liable for the Facility/ies in the event the Association is dissolved without a new Stormwater Agreement between the City and a responsible party that is assuming the Association's obligations.

9.12. No Amendment.

Without the prior written consent of the City, which may be given by the Durham City Manager, and notwithstanding any other provisions of these Restrictive Covenants, the Association may not amend or delete this Article with the exception of supplementing its provisions in a more detailed manner to better describe members' or Lot Owners' obligations regarding each other.

9.13. Stormwater Agreement Supersedes.

The Stormwater Agreement referenced above supersedes any limiting provisions contained elsewhere in other Articles of this Declaration. However, such Articles may supplement the obligations of the Association as set forth in that Agreement, and/or the obligations of and remedies against individual Lot Owners or members bound by these Restrictive Covenants.

ARTICLE 10 – RIGHTS RESERVED UNTO INSTITUTIONAL MORTGAGEES

10.01. Entities Constituting Institutional Mortgagees.

“Institutional First Mortgagee” as the term is used herein shall mean and refer to any federally or state chartered bank, insurance company, a FHLMC, FNMA, GNMA, HUD, VA or FHA approved mortgage lending institution, a recognized pension fund investing in mortgages, and any federally or state chartered savings and loan association or savings bank, or any other institutional lender customarily affording loans secured by first liens on residences, and eligible insurers and governmental guarantors. As used herein, “Mortgagee” shall also mean a beneficiary under a Deed of Trust. As used herein, “Mortgage” shall also mean a Deed of Trust.

An Institutional First Mortgagee shall not cease to be an Institutional First Mortgagee even if the first mortgage is partially subordinated to another mortgage encumbering the Property.

10.02. Eligible Mortgagees.

Wherever in the Declaration the approval or consent of “Eligible Mortgagees” is required, it shall mean the approval or consent of the Institutional Mortgagees holding or insuring first lien Mortgages on Lots which have provided to the Association written requests to receive written notice of the matters for which they are entitled to vote, stating their names and addresses and the street addresses of the Lots to which their Mortgages relate.

10.03. General Rights of Institutional Mortgagees.

The following provisions are intended for the benefit of “Eligible Mortgagees”:

(a) The Association shall undertake to furnish to each such Eligible Mortgagee timely written notice of (a) any condemnation or casualty loss that affects either a material portion of the Property or the Lot securing its mortgage, (b) any 60-day delinquency in the payment of Assessments or charges owed by the Owner of the Lot on which it holds the Mortgage, (c) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association, and (d) any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.

(b) Any Institutional First Mortgagee who comes into possession of a Lot pursuant to the remedies provided in the First Mortgage, through either deed-in-lieu or foreclosure, shall, to the extent permitted by law, take such property free of any claims for unpaid Assessments and charges in favor of the Association against the mortgaged Lot which became due prior to (i) the date of the transfer of title or (ii) the date on which the holder comes into possession of the Lot, whichever occurs first, provided, however, that this provision shall not apply to unpaid assessments and charges for which the Association has recorded a Notice of Lien in the public records prior to the recording of the applicable First Mortgage. In no manner shall the foregoing ability to avoid claims for unpaid Assessments and charges apply to the holder of a mortgage that is not an Institutional First Mortgagee.

(c) Each Eligible Mortgagee shall have the right:

(1) to examine current copies of this Declaration, the Articles of Incorporation, the Bylaws, Rules and Regulations and the books and records of the Association during normal business hours,

(2) to receive, by payment of a reasonable charge and within a reasonable time after such request, any annual audited or unaudited financial statements which are prepared and distributed by the Association to the Owners at the end of each of its respective fiscal years, provided, however, that in the event an audited financial statement is not available, any Eligible Mortgagee shall be entitled to have such an audited statement prepared at its expense,

(3) to receive written notices of all meetings of the Association and to designate a representative to attend all such meetings,

(4) to receive written notice of any decision by the Owners to make a material amendment to this Declaration, the Bylaws or the Articles of Incorporation, or

(5) to receive written notice of any proposed action which would require the consent of a specified percentage of Eligible Mortgagees.

(6) No provision of this Declaration or the Articles of Incorporation or any similar instrument pertaining to any portion of the Property shall be

deemed to give an Owner or any other party priority over the rights of Eligible Mortgagees pursuant to their first Mortgages in the case of distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of the Lots and/or the Common Elements, or any portion thereof or interest therein. In such event, the Eligible Mortgagees of the Lots affected shall be entitled, upon specific written request, to timely written notice of any such loss.

(d) Each Eligible Mortgagee shall be furnished notice in writing by the Association of any damage to or destruction or taking of the Common Elements if such damage or destruction or taking exceeds \$10,000.

(e) If any Lot (or portion thereof) or the Common Elements (or any portion thereof) is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the Eligible Mortgagee of said Lot or the Common Elements will be entitled to timely written notice, upon specific written request, of any such proceeding or proposed acquisition and no provisions of any document will entitle the Owner of such Lot or the Common Elements or other party to priority over such Eligible Mortgagee with respect to the distribution to such Lot or the Common Elements of the proceeds of any award or settlement.

To the extent that any other provisions of this Declaration conflict with the foregoing provisions, the foregoing provisions shall control.

10.04. Taxes and Assessments.

Declarant and Institutional First Mortgagees may, jointly or severally, pay taxes and assessments or other charges which are in default and which may or have become a charge against the Common Elements, and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and Declarant and Institutional First Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

10.05. Failure of Mortgagee to Respond.

Any Eligible Mortgagee who received a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Eligible Mortgagee within 30 days of the date of the Association's request, based upon the date indicated on a postal return receipt or other certified evidence showing delivery.

10.06. Requirements of Eligible Mortgagee.

Whenever any Eligible Mortgagee desires to avail itself of the provisions of this Article, it shall furnish written notice thereof to the Association by CERTIFIED MAIL at the address shown in the Articles of Incorporation identifying the Lot or Lots upon which

such Eligible Mortgagee holds any first lien or identifying any Lot or Lots owned by such Eligible Mortgagee, and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Eligible Mortgagee.

ARTICLE 11 – GENERAL PROVISIONS

11.01. Enforcement.

The Owner of each Lot shall be governed by and shall comply with the provisions of this Declaration, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto, as any of the same are now constituted or as they may be amended from time to time. A default by any Owner shall entitle the Association or the Owner of any of the other Lots to the following relief:

(a) The Association or any Owner at any time, or the Declarant during the Declarant's Development Period, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto. Failure to comply with any of the terms of this Declaration or other restrictions and regulations contained in the Bylaws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief, including without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Property to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

(b) The Association, after notice to the Owner and a reasonable opportunity to be heard, shall have the right to assess reasonable fines against an Owner for violations of this Declaration, the Bylaws or the Association's published rules and regulations by such Owner, or such Owner's family, guests, invitees and lessees in an amount not to exceed \$100.00 for each violation, and without further hearing, for each day more than five (5) days after the decision that the violation occurs. Such fines shall be deemed to be assessments as set forth in Article 4 of this Declaration, and if not paid within thirty (30) days after notice and demand therefor, the Association shall be entitled to the remedies set forth in this Declaration for the enforcement and collection of delinquent assessments. The procedure for imposition of a fine and suspension of privileges or services shall be in compliance with Section 47F-3-107.1 of the Planned Community Act.

(c) The Association, after notice to the Owner and a reasonable opportunity to be heard, shall have the right to suspend privileges or services provided by the Association (except rights of access to Lots) for reasonable periods of violations of this Declaration or the Bylaws, Articles of Incorporation or rules and regulations of the Association, if it is decided that a suspension of privileges or services provided by the Association should be imposed. The suspension may be continued without further hearing until the violation is cured. Any suspension shall be subject to the terms of the Planned Community Act.

(d) If an Owner is legally responsible for damage inflicted on any Common Elements, the Association may direct such Owner to repair such damage or the Association may itself cause the repairs to be made and recover damages from the responsible Owner. If damage is inflicted on any Lot by an agent of the Association in the scope of the agent's activities as such agent, the Association is liable to repair such damage or to reimburse the Owner for the cost of repairing such damages. The Association shall also be liable for any losses to the Owner. When any such claim for damages against an Owner or the Association is less than or equal to the jurisdictional amount established for small claims by North Carolina General Statutes, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the Board to determine if an Owner is responsible for damages to any Common Elements or the Association is responsible for damages to any Lot. If the Board fails to appoint an adjudicatory panel to hear such matters, such hearings shall be held before the Board. Such panel shall accord to the party charged with causing damages notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. This panel may assess liability for each damage incident against each Owner charged or against the Association not in excess of the jurisdictional amount established for small claims by North Carolina General Statutes. When such claim exceeds the jurisdictional amount established for small claims by North Carolina General Statutes Section 7A-210, liability of any Owner charged or the Association shall be determined as otherwise provided by law. Liabilities of Owners determined by adjudicatory hearing or as otherwise provided by law shall be assessments secured by lien under Section 47F-3-116 of the Planned Community Act. Liabilities of the Association determined by adjudicatory hearing or as otherwise provided by law may be offset by the Owner against sums owing to the Association and if so offset, shall reduce the amount of any lien of the Association against the Lot at issue.

(e) In any proceeding arising because of an alleged default by an Owner, the Association, if successful, shall be entitled to recover the costs of the proceedings and such reasonable attorneys' fees as may be determined by the Court.

(f) The failure of the Association or any Owner or the Declarant during the Declarant's Development Period to enforce any right, provision, covenant or condition which may be granted by this Declaration or the other above mentioned documents shall not constitute a waiver of the right of the Association or of the Owner to enforce such right, provision, covenant or condition in the future.

(g) All rights, remedies and privileges granted to the Association or the Owners, pursuant to any terms, provisions, covenants or conditions of this Declaration or other above mentioned documents, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

11.02. Severability.

Invalidation of anyone of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

11.03. Term and Amendment.

(a) The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated as hereafter provided.

(b) In addition to amendments to this Declaration by the Declarant as provided in subsection (d) below, the Declaration may be amended only by affirmative vote or written agreement signed by Owners entitled to cast at least sixty-seven percent (67%) of the total votes of the Association (inclusive of Class B voting rights, if any exist at the date of amendment) and may be terminated with the consent of the Owners entitled to cast at least eighty percent (80%) of the total votes of the Association (inclusive of Class B voting rights, if any exist at the date of amendment), provided, however, this Declaration may not be amended or terminated without Declarant's and Approved Builder's consent during Declarant's Development Period, and no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements on or affect any lien for the payment thereof established herein. For the purpose of this Section, additions to existing property by Declarant and Approved Builder pursuant to Section 11.04 shall not constitute an "amendment."

(c) Any amendment must be executed on behalf of the Association by a duly authorized officer and be properly recorded in the Office of the Register of Deeds, Durham County, North Carolina.

(d) In addition to amendments under subsection (b) above, this Declaration may be amended at any time and from time to time by Declarant in its sole and absolute discretion with the written consent of Approved Builder until the termination of Declarant's Development Period, which Declarant deems necessary or desirable, including, without limitation, amendments or modifications to any procedural, administrative or substantive provisions of this Declaration. Other than the prior written consent of Approved Builder, no consent or approval of such amendment by the Board of Directors or Members of the Association shall be required for any amendment by Declarant under this Section 11.03(d).

11.04. Annexation of Additional Property.

(a) Except as provided in subsection (b) of this Section 11.04, any portion of the Additional Property may be added and annexed to the Property only with the consent of two-thirds (2/3) of Members who are voting in person or by proxy at a meeting duly called where a quorum is present, provided, however, if during the Declarant's Development Period, Declarant and Approved Builder also must consent to such action. A

meeting shall be duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days in advance of the meeting.

(b) If, within fifteen (15) years of the date of incorporation of the Association, the Declarant should develop all or any portion of the Additional Property, such Additional Property may be added to and annexed to the Property by Declarant with the written consent of Approved Builder, but without the consent of any other Member for the purpose of determining if other property is adjacent to that Property, the rights-of-way of public roads and utilities, as well as rivers and streams, shall not be deemed to separate otherwise adjacent property. Any such annexation shall be effective upon recordation by Declarant of a signed and acknowledged supplemental declaration of annexation in the Durham County Registry stating that such real property has been annexed to this Declaration; other than the prior written consent of Approved Builder, no consent or approval of such annexation by the Board of Directors or Members of the Association shall be required for an annexation by Declarant under this Section 11.04(b).

11.05. Withdrawal of Property by Declarant.

In addition to Declarant's amendment rights set forth in Section 11.03 above, Declarant reserves the right to amend this Declaration during the Declarant's Development Period for the purpose of removing any portion of the Property from the coverage of this Declaration, provided the withdrawal is not contrary to the overall, uniform scheme of development for the Property as determined by Declarant in its sole discretion with the prior written consent of Approved Builder and provided further that such withdrawal does not include any Common Elements without the consent of the Association. Such amendment will not require the consent of any person other than Approved Builder and the Owner of the property withdrawn, if not the Declarant.

11.06. Amplification.

The provisions of this Declaration are amplified by the Articles of Incorporation and Bylaws, but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws on the other, be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control over anything contained in the Articles of Incorporation or Bylaws of the Association.

11.07. CONSTRUCTION AND OTHER ACTIVITIES.

ALL OWNERS AND PERMITTED USERS OF THE PROPERTY ARE HEREBY PLACED ON NOTICE THAT DECLARANT OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES MAY BE, FROM TIME TO TIME, CONDUCTING EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE SUBDIVISION. BY

THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE PROPERTY, EACH SUCH OWNER AND PERMITTED USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (1) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (2) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE SUBDIVISION WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (3) DECLARANT AND THE OTHER AFORESAID PARTIES WILL NOT BE LIABLE BUT, RATHER, SHALL BE HELD HARMLESS, FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (4) ANY PURCHASE OR USE OF ANY PORTION OF THE SUBDIVISION HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING, AND (5) THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT TO SELL, CONVEY, LEASE OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE SUBDIVISION.

11.08. COVENANTS RUNNING WITH THE LAND.

IT IS THE INTENTION OF ALL PARTIES AFFECTED HEREBY (AND THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS) THAT THE COVENANTS IN THE GOVERNING DOCUMENTS SHALL RUN WITH THE LAND AND WITH TITLE TO THE PROPERTY. WITHOUT LIMITING THE GENERALITY OF SECTION 11.03 HEREOF, IF ANY PROVISION OR APPLICATION OF THE COVENANTS IN THE GOVERNING DOCUMENTS WOULD PREVENT THE COVENANTS FROM RUNNING WITH THE LAND AS AFORESAID, SUCH PROVISION OR APPLICATION SHALL BE JUDICIALLY MODIFIED, IF AT ALL POSSIBLE, TO COME AS CLOSE AS POSSIBLE TO THE INTENT OF SUCH PROVISION OR APPLICATION AND THEN BE ENFORCED IN A MANNER WHICH WILL ALLOW THE COVENANTS IN THE GOVERNING DOCUMENTS TO SO RUN WITH THE LAND; BUT IF SUCH PROVISION OR APPLICATION CANNOT BE SO MODIFIED, SUCH PROVISION OR APPLICATION SHALL BE UNENFORCEABLE AND CONSIDERED NULL AND VOID IN ORDER THAT THE PARAMOUNT GOAL OF THE PARTIES AFFECTED HEREBY (THAT THE OTHER COVENANTS IN THE GOVERNING DOCUMENTS RUN WITH THE LAND) BE ACHIEVED.

11.09. NOTICES AND DISCLAIMERS AS TO WATER BODIES.

NEITHER DECLARANT, THE ASSOCIATION, NOR ANY OF THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES,

MANAGEMENT AGENTS, CONTRACTORS OR SUB-CONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, CANAL, CREEK, STREAM OR OTHER WATER BODY WITHIN THE COMMUNITY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY OR CONTRACTED FOR WITH AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES WITHIN THE COMMUNITY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

IN WITNESS WHEREOF, Declarant has executed and sealed this Declaration as its act and deed this 27th day of June, 2017.

SAB VALLEY SPRINGS, LLC,
a North Carolina limited liability company

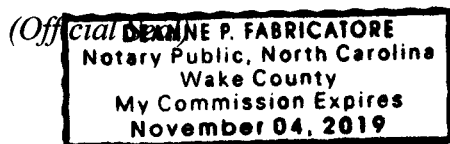
By: Bruce W. Knott
Name: Bruce W. Knott
Title: Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I certify that the following person personally appeared before me this day, acknowledging to me that he signed the foregoing document:
Bruce W. Knott

Date: June 27, 2017

Deanne P. Fabricatore
Official Signature of Notary



Deanne P. Fabricatore, Notary Public
Printed or typed name

My commission expires: November 4, 2019

EXHIBIT A

Legal Description of Property

BEING all of Tract One (1), containing 24.06 acres as shown on the plat of boundary survey recorded in Plat Book 195 Page 361 on April 19, 2016 in the Durham County Registry, to which recorded plat reference is hereby made for a more accurate description of the metes, bounds, courses and distances of Tract One (1).