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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SOUTHPOINT TOWNHOMES

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

DRAWN BY AND MAIL TO:

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**DECLARATION OF
COVENANTS CONDITIONS AND RESTRICTIONS
FOR
SOUTHPOINT TOWNHOMES**

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SOUTHPOINT TOWNHOMES (this "Declaration") is made this 6th day of February, 2017, by SCP SOUTH POINT, LLC, a Delaware limited liability company, and HC SOUTHPOINT TOWNHOMES, LLC, a North Carolina limited liability company (together with their successors and assigns, "Declarants"). Each capitalized term used in this Declaration shall have the meaning for such term defined herein unless otherwise required by context.

WITNESSETH:

WHEREAS, Declarants are the owners of the property described in Exhibit A attached hereto and made a part hereof, which property, together with such Additional Property as shall have been from time to time brought under the scheme of this Declaration by Supplemental Declaration filed in the Registry (collectively, the "Property"), has been or will be developed into building lots and related amenities for use as a community of townhome lots, upon which townhome units will be constructed (each a "Townhome" and collectively "Townhomes"), said community to be known as SouthPoint (provided, however, Declarants reserve the right to change said name as to all or any portion of the Property at any time and from time to time); and

WHEREAS, Declarants desire to insure the attractiveness of the Lots and community facilities within the Property and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect, and enhance the values and amenities of the Property, and to provide for the maintenance and upkeep of the Common Areas, the Located Easements, and other community facilities and utilities within the Property; and, in order to accomplish these objectives, Declarants deem it advisable to subject the Property to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth; and

WHEREAS, Declarants deem it desirable, in order to insure the efficient preservation, protection, and enhancement of the values and amenities of the Property and the residents' enjoyment of the specific rights, privileges, and easements in the Common Areas, the Located Easements, and the other community facilities and utilities within the Property, that an organization be created to which will be delegated and assigned the powers of maintaining the Common Areas, the Located Easements, and the other community facilities and utilities within the Property, administering and enforcing this Declaration, and collecting and disbursing the assessments and charges hereinafter imposed; and

WHEREAS, Declarants have caused or will cause to be created for the purposes aforesaid, a North Carolina non-profit corporation under the name and style of SouthPoint Townhome Association, Inc. ("Association").

NOW, THEREFORE, the Declarants declare that the Property is and shall be owned, held, leased, transferred, sold, mortgaged, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, charges, and liens, which shall run with the title to Property

and be binding upon and inure to the benefit of all Owners thereof and their heirs, personal representatives, successors, and assigns.

ARTICLE 1 **DEFINITIONS**

Without limitation of other capitalized terms defined herein, certain of the capitalized terms used in this Declaration are defined in and shall have the meanings given them in this Article 1.

Section 1.1. “16’ Lots” shall mean Lots each having sixteen feet (16’) of property fronting the street on which said Lots are located. The 16’ Lots and 20’ Lots may be referred to collectively as “Lots”.

Section 1.2. “20’ Lots” shall mean Lots each having twenty feet (20’) of property fronting the street on which said Lots are located. The 16’ and 20’ Lots may be referred to collectively as “Lots”.

Section 1.3. “Act” shall mean the North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes.

Section 1.4. “Additional Property” shall mean the property described on Exhibit B attached hereto, all of any portion of which may from time to time be made subject to the Declaration pursuant to Article 2 hereof and which, when so subjected, shall become a part of the Property.

Section 1.5. “Annual Assessment” shall have the meaning set forth in Article 7, Section 6.3.

Section 1.6. “Assessment Year” shall mean such one year period as shall be specified by the Board in its discretion.

Section 1.7. “Association” shall mean Southpoint Townhome Association, Inc., a North Carolina non-profit corporation.

Section 1.8. “Authority” over any parcel of property shall mean a right of ownership or control (whether in whole or in part) over such parcel of property.

Section 1.9. “Board” shall mean the Board of Directors of the Association. Notwithstanding anything to the contrary set forth in this Declaration or the Charter Documents, so long as Declarants owns any portion of the Property, Declarants shall have the right at any time and from time to time to appoint and remove any and all members of the Board.

Section 1.10. “Charter Documents” shall mean the Articles of Incorporation and Bylaws of the Association, as applicable, as the same may be amended.

Section 1.11. “Common Areas” shall mean all portions of the Property which are deeded to the Association for the common use and enjoyment of all Members or owned by

Declarants and designated for the common use and enjoyment of the Association and its Members, and all improvements and facilities constructed thereon for such purposes, including, but not limited to (without any obligation by Declarants to construct or install the same), any signage, irrigation, drainage facilities, sidewalks, entrance monuments, landscaped areas, lighting, green or natural area, private drives and other amenities constructed on portions of Common Areas on the Property.

Section 1.12. “Declarants” shall mean SCP South Point, LLC, and HC Southpoint Townhomes, LLC, their successors and assigns.

Section 1.13. “General Utility Easements” shall have the meaning set forth in Article 4, Section 4.1.

Section 1.14. “Improvement” shall mean any structure and all appurtenances thereto of every type and kind, including but not limited to: buildings, outbuildings, patios, tennis courts, garages, doghouses, swimming pools, basketball goals, mailboxes, aerials, roads, driveways, parking areas, fences, walls, retaining walls, stairs, decks, landscaping, plantings, planted trees and shrubs, ponds, lakes, changes in grade or slope, site preparation, poles, signs, exterior air conditioning, external facilities used in connection with utilities (including water, sewer, gas, electric, telephone, regular, cable or satellite television or computer service), exterior illumination, front doors, window blinds, changes in any exterior color, and any new exterior construction or exterior improvement not included in any of the foregoing. The definition of Improvement includes both original Improvements and all later changes and/or repairs to Improvements, except that it does not include replacement of trees or shrubs with those of the same or similar species or replacement or repair of Improvements previously approved by the Architectural Control Committee provided such replacement or repair does not change any exterior color, material, design or appearance from that previously approved by the Architectural Control Committee.

Section 1.15. “Individual Assessments” shall have the meaning set forth in Article 7, Section 7.5.

Section 1.16. “Located Easements” shall have the meaning set forth in Article 4, Section 4.1.

Section 1.17. “Lot” shall mean a portion of the Property which has been included as a numbered or lettered plot of land on a Plat.

Section 1.18. “Member” shall have the meaning set forth in Article 5, Section 5.1.

Section 1.19. “Owner” shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.20. “Person” shall mean any individual, corporation, partnership, association, trust, or other legal entity.

Section 1.21. “Plats” shall mean such plats of all or any portion of the Property as shall have been from time to time recorded in the Registry (each a “Plat”).

Section 1.22. “Property” shall mean the property described in Exhibit A hereto, together with such Additional Property as shall have been from time to time brought under the scheme of this Declaration by Supplemental Declaration filed in the Registry.

Section 1.23. “Registry” shall mean the office of the Register of Deeds for Mecklenburg County, North Carolina.

Section 1.24. “Special Assessments” shall have the meaning set forth in Article 7, Section 7.4.

Section 1.25. “Supplemental Declaration” shall mean a Supplemental Declaration of Covenants, Conditions and Restrictions filed in the Registry pursuant to Article 2, Section 2.2.

Section 1.26. “Townhome” shall mean one individual dwelling located on a Lot.

Section 1.27. “Working Capital Contributions” shall have the meaning set forth in Article 7, Section 7.13.

ARTICLE 2 PROPERTY

Section 2.1. Property Subject to Declaration. The Property shall be owned, held, leased, transferred, sold, mortgaged, conveyed and occupied subject to this Declaration.

Section 2.2. Scope of Additional Coverage. Declarants shall have the right, at its election without the consent of any Owner, to bring within the scheme of this Declaration and subject to the jurisdiction of the Association any portion of the Additional Property which Declarants shall elect, by filing a Supplemental Declaration in the Registry. At such time as any Additional Property is brought within the scheme of this Declaration set forth above, it shall be part of the Property.

Section 2.3. Additional Declaration Documents. Declarants may supplement the provisions of this Declaration, whether with regard to the entire Property or any portion thereof, including any modifications as may be necessary to reflect the different character of any portion of the Property, provided the same are not inconsistent with the plan and spirit hereof. So long as Declarants own any part of the Property, Declarants’ prior written consent shall be required for any Person to supplement the provisions of this Declaration in regard to any portion of the Property.

ARTICLE 3 RIGHTS IN COMMON AREAS

Section 3.1. Owner’s Easements of Enjoyment. Subject to the provisions of Section 3.5 of this Article and other provisions of this Declaration, each Owner shall have a right

and easement of use and enjoyment in and to the Common Areas, and such easements shall be appurtenant to and shall pass with the title to such Owner's Lot; provided, however, that such easements shall not give such Owner the right to make alterations, additions, or improvements to any part of any Common Area.

Section 3.2. Delegation of Use. The rights and easements of use and enjoyment granted to each Owner in Section 3.1 of this Article may be exercised by the members of the Owner's family who occupy the Owner's Lot, and may be delegated by the Owner to such Owner's tenants who occupy said Lot as their principal residence.

Section 3.3. Title to the Common Areas.

(a) Declarants shall convey to the Association (by special warranty deed) fee simple title to the Common Areas, free and clear of all encumbrances and liens other than the lien of current taxes and assessments not in default, restrictive covenants and utility easements, and any other title exceptions of record. Common Areas may be conveyed by Declarants to the Association in whole or in part from time to time.

(b) While it is anticipated that the Common Areas shall be limited to those properties specifically set forth on the Plats, nothing contained herein shall prevent the Declarants, by Supplemental Declaration or otherwise, to create, and to convey to the Association, any Common Areas.

Section 3.4. Control of Common Areas. Subject to other provisions in this Declaration, the Association shall have sole and exclusive Authority over the usage of and guidelines applicable to the Common Areas.

Section 3.5. Extent of Owner's Easement. The rights and easements of use and enjoyment created in this Article shall be subject to the following:

(a) The right of the Association to prescribe regulations governing the use, operation, and maintenance of the Common Areas (including limiting the number of guests of Owners who may use such Common Areas) subject to limitations established by the Declarants or the Association, as applicable, on such right to impose regulations.

(b) Subject to affirmative vote of eighty percent (80%) of the votes of the Class A Members and the vote of the Class B Member (for so long as Class B Membership exists), the right of the Association to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage such Common Areas; provided that the rights of such mortgagee in the Common Areas shall be subordinate to the rights of the Owners hereunder.

(c) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosure.

(d) Subject to the affirmative vote of eighty percent (80%) of the votes of the Class A Members and the vote of the Class B Member (for so long as Class B Membership exists), the right of the Association to dedicate or transfer all or any part of

the Common Areas, subject to the provisions of Section 47F-3-112 of the Act; provided that this paragraph shall not preclude the Association from either granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage, utilities and drainage facilities upon, over, under and across the Common Areas without the assent of the Members when such easements are requisite for the convenient use and enjoyment of the Property, as determined by the Board in its sole discretion or the reconfiguration of Lots and Common Areas by Declarants.

(e) The right of the Association to grant easements, leases and licenses through or over the Common Areas.

(f) The rights of the Association and Declarants to use the easements for ingress and egress over, in, to and throughout the Common Areas.

(g) The right of Declarants, their successors and assigns to make any improvements for any reason, they deem proper upon the Common Areas, even after their conveyance to the Association. Declarants hereby reserve an easement over the Common Areas for the purpose of development of the remainder of the Property or Additional Property owned by the Declarants. Although not limited in scope of this easement, this easement shall include the right of access at all times for Declarants' employees, agents, subcontractors, invitees, etc., over the Common Areas and shall include the right to construct, maintain and dedicate any additional utility easements, drainage easements or any additional sanitary sewer or water line easements across any of the Common Areas. This Easement shall terminate upon the completion of the development of South Point or ten (10) years from the date hereof, whichever occurs first.

ARTICLE 4 **EASEMENTS**

Section 4.1. Located Easements. An easement on each Lot is hereby reserved by the Declarants along, over, under, and upon a strip of land five (5) feet in width parallel and contiguous to the front and rear Lot lines of each Lot, (collectively, the "General Utility Easements"). The purpose(s) of the General Utility Easements shall be to provide for installation, maintenance, construction, and operation of drainage facilities and utility service lines to, from, or for each of the Lots. In addition, the Declarants have reserved (and may hereafter reserve) the following other easements (which, together with the General Utility Easements are collectively sometimes referred to herein as the "Located Easements"), which Located Easements are reserved by Declarants for themselves, their successors and assigns, over, under, and across the Property, and which Declarants may modify or extinguish when in its sole discretion adequate easements are otherwise available:

(a) Landscape easements, consisting of: (i) those areas shown on the Plats as easements dedicated for the installation, maintenance, repair, and removal of landscaping amenities, including, but not limited to, monumentation, signage and sitework; (ii) street medians, shoulder, and boulevard areas within street rights of way;

(b) Specific utility easements, consisting of those areas shown on the Plats as easements dedicated for the installation, maintenance, repair, and removal of public and private utilities, including without limitation gas, electric, telephone, cable, sewer, and water;

(c) Irrigation easements, consisting of those areas shown on the Plats as easements dedicated for the installation, maintenance, repair, and removal of irrigation facilities; and

(d) Drainage easements, consisting of those areas shown on the Plats as easements dedicated for the installation, maintenance, repair, and removal of drainage facilities.

(e) Construction easements, consisting of those areas over the Lots and adjoining Common Areas as easements for purposes reasonably related to the installation of streets and construction of Townhomes on the Lots. Declarants and their contractors shall have full rights of ingress and egress to and through, over, and about the Lots and adjoining Common Areas during such period of time that Declarants are engaged in any construction or improvement work on or with the Property and shall further have an easement for the purpose of storing the materials, vehicles, tools, equipment, etc., which are being utilized in such construction. No Owner or his/her guests or invitees, shall in any way interfere or hamper Declarants or their employees or contractors in the exercise of these rights and easements.

(f) Repair and maintenance easements are reserved for the benefit of Declarants and the Association over, under, and through that portion of each Lot upon which is located any wall or any portion thereof for the construction, replacement, maintenance, and continued location of such wall, together with a general right of ingress, egress, and regress over and upon each Lot for the purpose of accessing such construction and location easement. Easements are reserved for the benefit of Declarants and the Association over, under, and through each Lot in order to perform any maintenance, alteration, or repair required or permitted herein to be performed by the Declarants or the Association, including, without limitation, the matters set forth in Sections 6.1(a), 6.1(b) and 6.1(c) of Article 6 (and the Owner of each Lot shall permit the Declarants and the Association and any representative of either to enter for such purposes at reasonable times and with reasonable advance notice), and for immediate entry onto each Lot in the case of any emergency threatening such Lot or any other Lot for the purpose of remedying or abating the cause of such emergency. The Declarants or the Association may, without consent or approval of any Owner, grant or convey any of the easement rights hereinabove reserved for the purposes set forth herein to any person, public or private utility or service company or any agent of Declarants or the Association.

(g) Settlement and overhang easements consisting of those areas over the Lots and adjoining Common Areas as easements for building encroachments created by initial construction and by subsequent settling and overhangs. A valid easement for said encroachments and for maintenance of same shall continue so long as said encroachments exist. In the event a Townhome is partially or totally destroyed, and then rebuilt, minor

encroachments over parts of the adjoining Lots or Common Area(s) resulting from the reconstruction shall also be permitted and a valid easement for said encroachments and the maintenance thereof shall continue.

Section 4.2. Rights and Limitations With Regard to Located Easements. With regard to the Located Easements, the following shall apply:

(a) Since the locations of certain of the Located Easements may not have been finally determined as of the date of recording of this Declaration in the Registry, for a period of ten (10) years after the date of recording of this Declaration in the Registry, Declarants reserve to themselves and their successors and assigns, and shall be vested with, the right to establish and adjust the locations of such of the Located Easements as are not finally established as of such date of recording and to record in the Registry on behalf of each and every affected Owner such revisions or supplements to the Plats as may be necessary or desirable to reflect the final locations of the Located Easements.

(b) Within the Located Easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction or flow of drainage channels. Except as otherwise specifically provided in this Declaration and except for maintenance and repairs for which a public authority or public utility shall be responsible, the Located Easements on each Lot and all Improvements therein shall be maintained continuously by the Owner.

(c) It is anticipated that Declarants shall assign to the Association Declarants' rights with respect to the Located Easements.

(d) Declarants shall have the right to assign to any public authority or public utility company, in whole or in part, any easement reserved by Declarants under this Declaration.

Section 4.3. Easement of Ingress and Egress. Full rights of ingress and egress are reserved for the benefit of Declarants and the Association for the exercise of the Located Easement rights, as well as the maintenance and repair rights (as set forth in Article 11) in accordance with the provisions hereof for the carrying out by Declarants and/or the Association of the rights, functions, duties, and obligations of each hereunder (to the extent applicable); provided, that any such entry by Declarants or the Association upon any Lot shall be made with as minimum inconvenience to the Owner of such Lot as reasonably practical, and any damage caused as a result of the gross negligence of Declarants' or the Association's employees or agents shall be repaired by Declarants or the Association (as the case may be) at the expense of Declarants or the Association (as the case may be).

Section 4.4. Reservation of Special Declarant Rights. Declarants hereby reserve all Special Declarant Rights as defined in Section 47F-1-103(28) of the Act, including, but not limited to the following: the right to complete, repair, maintain, replace and operate improvements on the Property; the right to exercise any development rights; the right to maintain sales offices, management offices, models and signs advertising the Property; the

right to use easements through the Common Area and through any Lot or Lots for the purpose of making, repairing, maintaining, replacing and operating improvements within the Property; and the right to elect, appoint or remove any officer or board member of the Association during any period of Declarants' control. These Special Declarant rights shall expire one year after the conveyance of Declarants' last Lot in the Property.

Declarant may transfer any Special Declarant Rights created or reserved hereunder to any person or entity, by an instrument evidencing the transfer duly recorded in the Office of the Register of Deeds for Mecklenburg County. The instrument shall not be effective unless it is executed by the transferor and the transferee. Upon the transfer of any Special Declarant Rights, the liability of the transferor and the transferee shall be as set forth in N.C.G.S. §47C-3-104.

Section 4.5. Easements for Driveway Encroachments. Declarants hereby establish an easement for any Lot ("Benefited Lot") whose driveway, as installed by Declarants, encroaches onto the adjoining Lot ("Burdened Lot"). This easement shall be non-exclusive and perpetual and shall allow the portion of the Benefited Lot's encroaching driveway, as installed by Declarants, to remain on the Burdened Lot. This easement is appurtenant to the Benefitted Lot and shall burden and run with the title to the Burdened Lot and shall be binding on all Owners, successors and assigns of the Benefited Lots and Burdened Lots. The foregoing easement shall also apply to any replacement driveway in conformance with the original driveway installed and constructed by Declarants.

ARTICLE 5 **MEMBERSHIP IN THE ASSOCIATION**

Section 5.1. Membership in the Association. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. The voting rights of the Members shall be appurtenant to the ownership of the Lots. When more than one Person owns an interest (other than a leasehold or security interest) in a Lot, all such Persons shall be Members and the voting rights appurtenant to said 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 owned by a Class A Member.

Section 5.2. Classes of Members. The Association shall have two classes of membership:

(a) Class A. Class A Members shall be all Members with the exception of Declarants. Each Class A Member shall be entitled to one vote (1) per Lot owned by such Member.

(b) Class B. The Class B Member shall be the Declarants. The Class B Member shall be entitled to five (5) votes for each Lot owned by it.

Notwithstanding anything contained herein to the contrary, Class B Membership shall cease on the earliest of (a) December 31, 2021, (b) within 120 days after the date on which Declarants no longer own any part of the Property, or (c) the date

Declarants shall elect, in their discretion, that Class B Membership cease and be converted to Class A Membership (which election may be made upon Declarants giving written notice of the election to the Board).

Section 5.3. Voting, Quorum, and Notice Requirements. Except as may be otherwise specifically set forth in this Declaration or in the Charter Documents, the vote of the majority of the aggregate votes entitled to be cast by all classes of the Members present or represented by legitimate proxy at a legally constituted meeting at which a quorum is present shall be the act of the Members meeting. The Charter Documents will set forth (a) the number of votes present that will constitute a quorum at a properly called meeting of Members and (b) the notice requirements for all action to be taken by the Members.

In any instance in this Declaration in which the affirmative vote of a number or percentage of votes of the Association is called for, it shall be interpreted to mean the following: The affirmative vote of that number or percentage of votes of the Association that: (i) are entitled to be cast and (ii) are present or represented by proxy at a Proper Meeting. A "Proper Meeting" shall mean a meeting of the members of the Association: (a) at which a quorum is present and (b) which is duly called and held for the purpose of casting such vote.

ARTICLE 6 POWERS RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 6.1. Powers and Obligations of the Association. The Association, for the benefit of the Owners, shall have the following specific powers and rights (without limitation of other powers and rights the Association may have) and obligations:

(a) The power, right, and obligation to improve, maintain, or cause to be maintained the Common Areas and Located Easements (or particular portions thereof or particular improvements therein, as determined from time to time by the Association in its discretion);

(b) The power, right and obligation to periodically paint, stain, repair, replace, and care for all exterior building surfaces (including without limitation: external brick, siding, roof surfaces, roof systems, gutters, and downspouts; but excluding: patios, porches, stoops, entry doors, rooftop terraces and garage doors and their appurtenant hardware, and all exterior glass including windows and patio doors, all of which shall be maintained, repaired, and replaced by the Owner, with any replacement windows and doors being the same as originally installed); provided, however, the Owner, and not the Association, shall maintain any exterior improvements made by the Owner;

(c) The power, right and obligation to maintain, repair, and replace the landscaping (including irrigation system) in the front and rear yards of the Townhomes on the Lots, including, but not limited to, trees, hedges, shrubs, flowers, ground cover and grass, but excluding any additional landscaping installed by any Owner (any such landscaping being required to be approved in writing by the Architectural Control Committee).

Notwithstanding Subsections (b) and (c) above, if the need of replacement, maintenance, or repair is caused through the willful or negligent act of the Owner, the Owner's family, guest, or invitees, the cost of such replacement, maintenance, or repairs shall be the obligation of that Owner and shall be assessed by Individual Assessment.

(d) The power and right to own the Common Areas and the facilities and improvements thereon;

(e) The power and right to enter into agreements to enable the Association to improve and maintain the Common Areas and Located Easements or portions thereof;

(f) The power and right to make (without being obligated to do so) rules and regulations and establish guidelines for the use and operation of and activities on the Lots and the Common Areas and Located Easements (including, without limitation, guidelines, rules, and regulations related to architectural control), and to amend and enforce them from time to time;

(g) The power and right to enter into agreements or contracts with insurance companies with respect to insurance coverage relating to the Common Areas, Located Easements, and the Association;

(h) The power and right to enter into agreements or contracts with utility companies with respect to utility installation, consumption, and service matters relating to the Common Areas, Located Easements, and the Association;

(i) The power and right to borrow funds to pay costs of operation of the Association, which borrowings may be secured by assignment or pledge of rights against delinquent Owners or by liens on other Association assets, if the Board sees fit;

(j) The power and right to enter into contracts (specifically including, without limitation, street light leases), maintain one or more bank accounts, and generally to have all the powers necessary or incidental to the operation and management of the Association;

(k) The power and right to sue or defend in any court of law in on behalf of the Association and to provide reserves for repairs and replacements;

(l) The power, right, and obligation to make available to each Member within sixty (60) days after the end of each Assessment Year an annual report of the Association and, upon resolution adopted by the Board or upon the written request of the Class A Members holding at least three-fourths (3/4) of the eligible votes of Class A Members of the Association at such time, to have such report audited (at the expense of the Association) by an independent certified public accountant, which audited report shall be made available to each Member within thirty days after completion;

(m) The power, right, and obligation to adjust the amount, collect, and use any insurance proceeds to repair damage to or replace lost property of the Association;

and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency;

(n) The power and right to exercise all powers, duties, and authority vested in the Association by this Declaration or the Charter Documents and not reserved to the Members or Declarants by other provisions of this Declaration or the Charter Documents;

(o) The power and right to employ a manager or firm to manage the affairs and property of the Association (including, without limitation, collection of assessments provided for in this Declaration and enforcement of the other provisions of this Declaration), to employ independent contractors, or such other employees as the Board may deem necessary, and to prescribe their duties and to set their compensation;

(p) The power and right to retain the services of legal and accounting firms;

(q) The power and right to the extent permitted hereby, to enforce the provisions of this Declaration and any rules made hereunder and to enjoin and, at its discretion, seek damages or other relief for violation of such provisions or rules, and to fine Owners for violations after proper notice and opportunity to be heard as required by the Act;

(r) The power and right to contract with any third party or any Member (including Declarants) for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be at competitive rates and otherwise upon such terms and conditions and for such consideration as the Board may deem proper, advisable, and in the best interests of the Association;

(s) The power and right to take any and all other actions and to enter into any and all other agreements as may be necessary or proper for the fulfillment of its rights or obligations hereunder or for the operation or protection of the Association;

(t) The power and right to set the Assessments; and

(u) Anything contained herein to the contrary notwithstanding, except as specifically set forth herein, none of the above-described rights and powers of the Association shall be obligatory on the part of the Association, and the failure or refusal by the Association to implement any such rights and powers shall not constitute a breach or default by the Association or the Board or the officers of the Association of any duties or obligations arising hereunder or otherwise owing to its Members.

Section 6.2. Liability Limitations. Neither Declarants, nor any Member, nor the Board, nor any member or manager of Declarants nor any officer or director of the Association shall be liable for: (a) debts contracted for or otherwise incurred by the Association or for a tort of another Member, whether or not such other Member was acting on behalf of the Association or otherwise; (b) any incidental or consequential damages for failure to inspect

any premises, improvements, or portions thereof or for failure to repair or maintain the same; or (c) any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof. The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board from and against any and all loss, expense, damage, liability, action, or cause of action relating to the performance by the Board of its duties except for any such loss, expense, damage, liability, action, or cause of action resulting from the gross negligence or willful misconduct of the person to be indemnified.

ARTICLE 7 ASSESSMENTS

Section 7.1. Covenant for Assessments. The Owner of a Lot (except for Declarants), 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 to the Association: (a) Annual Assessments; (b) Special Assessments; (c) Individual Assessments; and (d) Working Capital Contributions (collectively "Assessments"). Any such Assessments or charge, together with interest, costs, fines and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment or charge is made. Each such Assessment, together with interest, costs, fines and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment or charge fell due.

Section 7.2. Purposes of Assessments. The Assessments shall be used to carry out of the rights, powers, and obligations of the Association pursuant to the terms of this Declaration, and to promote the enjoyment and welfare of the Property, including in particular, but without limitation, to (i) maintain and repair the Common Areas and Located Easements; (ii) pay ad valorem taxes, premiums for hazard insurance in connection with the Common Areas and Located Easements, and public liability and other insurance of the Association, including directors and officers liability insurance; (iii) carry out the duties of the Association; (iv) carry out the purposes of the Association and its Architectural Control Committee as stated in the Charter Documents and this Declaration; (v) as more particularly described in Article 6, Section 6.1(b), repair and replacement of exterior surfaces of the Townhomes (excluding, entry doors, garage doors, light fixtures, and windows); (vi) as more particularly described in Article 6, Section 6.1(c), repair and replacement of the landscaping (including irrigation systems) in the front yards of the Townhomes on the Lots, including, but not limited to, trees, hedges, shrubs, flowers, ground cover and grass, but excluding any additional landscaping installed by any Owner; (vii) pay all utility expenses of the Common Areas; (viii) maintenance of insurance as provided in Article 10, Section 10.6; and (ix) pay all utilities that are master metered. All costs and expenses associated with operating, maintaining, repairing, and replacing the improvements within the Common Areas and Located Easements benefiting the Property in general (as determined from time to time in the sole discretion of the Board) shall be the responsibility of the Association.

In addition to the general purposes set forth above, the Assessments shall expressly be used for repayment of any loan incurred, payment of any sum due under any lease entered into, and

satisfaction of any other expense of installation, maintenance, repair, or replacement incurred by Declarants or the Association in connection with the acquisition of decorative street light poles, fixtures, bulbs, wiring, and all equipment related to the use thereof within the Property. However, to the extent that there is any fee or payment due on account of the maintenance of any such poles not located on streets dedicated to the public, such fees or expenses shall be borne entirely by the Owners of Lots and assessed in such manner as shall be determined by the Board.

Section 7.3. Annual Assessments. For each Assessment Year, in accordance with the provisions of the Act and this Declaration, the Board shall determine the amounts of the annual assessments provided for in this Article 7 (the “Annual Assessment”). Based on the fact that there will be different Townhome designs located on the 16’ Lots and the 20’ Lots, there may be different maintenance costs associated with each of the different Lot types issued, the Board reserves the right to assess different Annual Assessment amounts against 16’ Lots and 20’ Lots. In so doing, the Annual Assessment levied against all 20’ Lots will be uniformly applied against each of the 20’ Lots; and the Annual Assessment levied against all 16’ Lots shall be uniformly applied against each of the 16’ Lots, including any 16’ Lots designated as affordable housing with the Charlotte Housing Authority, to the extent local ordinances and Charlotte Housing Authority regulations allow assessments to be applied against such lots. In making such determination, the Board shall take into consideration, among other things, estimated development and maintenance costs to be borne by the Association under this Article 7, and future needs of the Association under this Article 7. The time of payment of the Annual Assessment shall be determined by the Board from time to time as set forth in statements of amounts due sent to each Lot Owner.

Section 7.4. Special Assessments. In addition to the Annual Assessment, the Board may levy in any Assessment Year, in accordance with the provisions of the Act and this Declaration, special assessments (each a “Special Assessment”) for the purpose of defraying, in whole or in part, any costs incurred by the Association under this Article 7 which are not paid for out of funds on hand in the Association or out of the Annual Assessment collected by the Association, as determined by the Board in its discretion. Any Special Assessment shall be subject to the approval of two-thirds of the Owners entitled to vote on such matters. The Board reserves the right to assess different Special Assessment amounts against 16’ Lots and 20’ Lots. In so doing, the assessment levied against all 20’ Lots will be uniformly applied against each of the 20’ Lots; and the assessment levied against all 16’ Lots shall be uniformly applied against each of the 16’ Lots, including any 16’ Lots designated as affordable housing with the Charlotte Housing Authority, to the extent local ordinances and Charlotte Housing Authority regulations allow assessments to be applied against such lots. In the event a Special Assessment is made against less than all of the Lots, then only the Owners of a particular Lot type (i.e. 16’ or 20’ Lots) may vote on such Special Assessment.

Section 7.5. Individual Assessments. The Board may levy particular assessments against an individual Owner (“Individual Assessments”) for: (i) reimbursement to the Association for repairs to the Common Areas or Located Easements occasioned by the willful or negligent acts of such Owner; or (ii) payment of fines, penalties, or other charges imposed against an individual Owner relative to such Owner’s failure to comply with the terms and provisions of this Declaration, the Charter Documents, or any rules or regulations

