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MCDOWELL COUNTY NC FEE \$230.00

PRESENTED & RECORDED

10/30/2025 01:20:06 PM

LYDIA TILLEY EFFLER

REGISTER OF DEEDS

BY: SARA GARDNER

DEPUTY REGISTER OF DEEDS

BK: CRP 1518

PG: 719 - 784

**SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS**

FOR

THE RESERVE AT BAREFOOT LANDING ON LAKE JAMES

AMENDING AND RESTATING THAT CERTAIN DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR THE RESERVE AT BAREFOOT LANDING ON LAKE
JAMES RECORDED AT BOOK CRP 1464, PAGE 874, MCDOWELL COUNTY, NORTH
CAROLINA, REGISTER OF DEEDS

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY
OF POLITICAL SIGNS.**

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

Upon recording, please return to:
The Reserve at Barefoot Landing on Lake James, LLC
PO Box 3608
 Mooresville, NC 28117

submitted electronically by "Jones, Childers, Donaldson & Webb, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the McDowell County Register of Deeds.

1624414446.2

TABLE OF EXHIBITS**Exhibit****Subject Matter**

“A”

Land Initially Submitted

“B”

Additional Property

“C”

Depiction of Boat Launch Easement Area

THIS SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE RESERVE AT BAREFOOT LANDING ON LAKE JAMES (this "Declaration") is made to be effective upon the date of recording (the "Effective Date") by The Reserve at Barefoot Landing on Lake James, LLC, a North Carolina limited liability company (the "Declarant").

WHEREAS, the Declarant recorded that certain Declaration of Covenants, Conditions and Restrictions for The Reserve at Barefoot Landing on Lake James, recorded at Book CRP 1464, Page 874, McDowell County, North Carolina, real estate records, as amended by that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Reserve at Barefoot Landing on Lake James, recorded at Book CRP 1496, Page 30, aforesaid records (collectively, the "Original Declaration"), to govern the real property described on Exhibit "A," which is attached hereto and incorporated herein by reference (the "Properties");

WHEREAS, pursuant to Section 15.2(a) of the Original Declaration, Declarant reserved the right to alter, modify and change the within covenants, from time to time for any purpose until termination of the Class "B" membership;

WHEREAS, the Class "B" membership has not terminated;

WHEREAS, Declarant currently owns the entirety of the Properties and believes that the Properties shall benefit from the covenants, easements, restrictions, charges, liens and agreements established herein for the purpose of governing the improvement, use, enjoyment, occupancy and ownership of the Properties described herein; and

WHEREAS, in order to implement the aforesaid purposes and intentions, Declarant deems it necessary to amend and restate the Original Declaration in its entirety and establish this Declaration and to record the same in McDowell County, North Carolina.

NOW THEREFORE, in consideration of the premises and of the benefits to be derived by the Declarant and accruing to the Properties described herein, Declarant does hereby declare that the Properties are hereby subject to this Declaration and henceforth shall be owned, held, transferred, sold, conveyed, leased, occupied, used and mortgaged or otherwise encumbered subject to this Declaration and the Properties described herein shall be subject to the covenants, restrictions, easements, agreements, charges and liens provided for in this Declaration. This Declaration shall be binding upon all persons claiming under and through the Declarant, and their grantees and successors in title to any portion of the Properties described herein. Every grantee of an interest in any property now or hereafter made subject to this Declaration, by acceptance of a Deed, Long-Term Ground Leasehold Interest pursuant to a Long-Term Ground Lease or other conveyance or assignment of such interest, whether or not (a) expressed in such conveyance or assignment, (b) signed by the grantee or assignee, or (c) otherwise consented to in writing by such grantee or assignee, shall take such property subject to and be bound by this Declaration and be deemed to have accepted and assented to all of the terms, conditions and provisions set forth in this Declaration.

SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE RESERVE AT BAREFOOT LANDING ON LAKE JAMES

THIS SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for THE RESERVE AT BAREFOOT LANDING ON LAKE JAMES ("Declaration") is made as of the date set forth on the signature page hereof by The Reserve at Barefoot Landing on Lake James, LLC, a North Carolina limited liability company (the "Declarant").

Declarant is the owner of the real property described on Exhibit "A," which is attached and incorporated by reference or, if Declarant is not the owner, such owner has consented to this Declaration. This Declaration imposes upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance of such plan, this Declaration provides for the creation of The Reserve at Barefoot Landing on Lake James Community Association, Inc. to own, operate and maintain Common Areas and to administer and enforce the provisions of this Declaration, the By-Laws, and the Site and Use Guidelines (capitalized terms are defined in Article 1 below).

This Declaration sets forth the basic covenants, conditions and restrictions that will apply to the Properties. One of the anticipated objectives of the Reserve at Barefoot Landing on Lake James master plan is to create a recreational vehicle community in which the Properties will be used for the parking of and living within recreational vehicles on the Lots. This Declaration is designed to help implement the Reserve at Barefoot Landing on Lake James master plan in order to, among other purposes, fulfill the following:

1. protect, enhance and preserve the values, amenities, desirability, and attractiveness of the Properties;
2. promote The Reserve at Barefoot Landing on Lake James as a well-integrated, high-quality recreational vehicle community;
3. preserve and protect the natural habitat and open spaces;
4. encourage creative and innovative land planning that is sensitive to sustainable community formation and existing environmental conditions; and
5. establish a procedure for the continued maintenance and operation of Common Areas, Exclusive Common Areas, and Area of Common Responsibility, including any Improvements located therein, in a cost-effective and administratively efficient manner.

Declarant hereby declares that all of the property described on Exhibit "A" and any Additional Property subjected to this Declaration by Supplemental Declaration shall be held, sold, used, leased, and conveyed subject to the following easements, restrictions, covenants, and conditions which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest (including any Long-Term Ground Leasehold Interest or any other ground leasehold interest) in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Properties. Declarant further declares that this Declaration does not and is not intended to create a unit owners development pursuant to the North Carolina Unit Ownership Act, N.C.G.S.A. § 47A-1, *et seq.* or a condominium pursuant to the North Carolina Condominium Act, N.C.G.S.A. § 47C-1-101, *et seq.* This Declaration is not intended to create a campground or any camping sites pursuant to the North Carolina Membership

Camping Act as set forth in N.C.G.S.A. § 66-230, *et seq.* Pursuant to and subject to the terms and provisions of the North Carolina Planned Community Act as set forth in N.C.G.S.A. § 47F-1-101, *et seq.*, (the “Act”) Declarant hereby creates a planned community subdivision initially comprised of the property described in Exhibit “A”.

ARTICLE 1: DEFINITIONS

The terms in this Declaration and in the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 “Act”: Chapter 47F of the North Carolina General Statutes, which is also known as the North Carolina Planned Community Act as the same may be amended and revised from time-to-time. With respect to any specific references to sections of the Act contained herein, in the event that the Act is amended to cause a re-numbering of any existing sections which are referred to in this Declaration, the section references in this Declaration which correspond to the Act as existing on the date of this Declaration shall be deemed to apply to the re-numbered sections of the Act without the need for amendment to the Declaration caused solely because of the re-assigning of numbers to existing sections of the Act.

1.2 “Additional Property”: All of that certain real property which is more particularly described on Exhibit “B”, which is attached and incorporated herein by this reference, and which real property is subject to annexation to the terms of this Declaration in accordance with Article 7.

1.3 “Area of Common Responsibility”: The Common Area, together with any additional areas for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, any Cost Sharing Agreement, the Zoning Ordinance, or other applicable covenant, contract, or agreement.

1.4 “Articles of Incorporation” or “Articles”: The Articles of Incorporation of The Reserve at Barefoot Landing on Lake James Community Association, Inc. as filed with the Secretary of State of the State of North Carolina, as they may be amended.

1.5 “Association”: The Reserve at Barefoot Landing on Lake James Community Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

1.6 “Board of Directors” or “Board”: The body responsible for administration of the Association, selected as provided in the By-Laws and serving as the board of directors under North Carolina corporate law.

1.7 “By-Laws”: The By-Laws of The Reserve at Barefoot Landing on Lake James Community Association, Inc., as previously adopted, as the same may be amended from time to time.

1.8 “Common Area”: All real and personal property, including easements and licenses, which the Association owns, leases or holds possessory or use rights in for the common use, benefit, and enjoyment of the Owners. The term also shall include any Exclusive Common Area, as defined below. The Common Area may include, but not be limited to, the roads, shared driveways, streets, entrance ways, recreational areas, street lighting and signage located on property owned by the Association or made available for the use and enjoyment of the Owners.

1.9 “Common Expenses”: The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.

1.10 “Community Enhancement Fee”: The fees established and levied in accordance with Section 8.11.

1.11 “Community-Wide Standard”: The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard shall initially be established by the Declarant and may be more specifically determined by the Board of Directors and the SRB.

1.12 “Conservation Trust”: One or more nonprofit entities that may be designated by the Declarant that are qualified to hold conservation easements within or adjacent to the Properties pursuant to Section 170(h) of the Internal Revenue Code of 1986, as amended, or any successor statute.

1.13 “Cost Sharing Agreement”: Any agreement, contract or covenant between the Association and an owner or operator of property adjacent to, in the vicinity of, or within the Properties, including any Private Amenity, for the allocation of expenses for amenities and/or services that benefit both the Association and the owner or operator of such property.

1.14 “Days”: Calendar days; provided however, if the time period by which any action required hereunder must be performed expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regular business day.

1.15 “Declarant”: The Reserve at Barefoot Landing on Lake James, LLC, a North Carolina limited liability company or any successor, successor-in-title, or assign who holds or takes title to any portion of the property described on Exhibits “A” or “B” for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided however, there shall be only one Person entitled to exercise the rights and powers of the “Declarant” hereunder at any time.

1.16 “Declarant-Related Entity”: Any Person or entity that is a parent, subsidiary or affiliate of the Declarant, and/or in which the Declarant or any parent, subsidiary or affiliate of the Declarant or any officer, director, shareholder, partner, member, manager or trustee of any of the foregoing, owns, directly or indirectly, not less than thirty-three percent (33%) of such entity, including, without limitation, any Person that is a member of the Declarant.

1.17 “Development and Sale Period”: The period of time during which the Declarant or any Declarant-Related Entity owns any property which is subject to this Declaration, any Additional Property, or any Private Amenity, or has the unilateral right to subject Additional Property to this Declaration pursuant to Section 7.1. The Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Development and Sale Period by recording a written instrument in the Public Records.

1.18 “Exclusive Common Area”: A portion of the Common Area intended for the exclusive use or primary benefit of one (1) or more, but less than all, Lots, as more particularly described in Article 2.

1.19 “General Assessment”: Assessments levied on all Lots subject to assessment under Article 8 to fund Common Expenses for the general benefit of all Lots, as more particularly described in Sections 8.1 and 8.2.

1.20 "Governing Documents": The Declaration, By-Laws, Articles of Incorporation, all Supplemental Declarations, all Site and Use Guidelines, the rules of the Association, all Cost Sharing Agreements, the Zoning Ordinance, and all additional covenants governing any portion of the Properties or any of the above, as each may be supplemented and amended from time to time.

1.21 "Improvement": Any exterior structure or improvement, broadly defined to include, but not be limited to: buildings of a permanent or temporary nature (with temporary buildings other than approved recreational vehicles being permitted only during the construction of other Improvements, subject to approval by the SRB); outbuildings or other roofed structures; gazebos or playhouses, swimming pools or hot tubs; construction, erection, placement or removal of any object or item, permanently or temporarily, on the outside portions of the Lot, whether such portion is improved or unimproved; exterior alteration of existing Improvements or changes in exterior color or shape; staking, clearing, excavation, grading and other site work; sediment control devices; underground installations; surface water drainage facilities; slope alterations; berms; installation or replacement of hardscape; streets, roads, driveways, walkways, alley ways, or parking areas or facilities; fences of any kind, including invisible fences, screening walls, retaining walls, walls and other enclosures; dog runs or animal pens; stairs; patios, decks, or balconies; windbreaks; artificial vegetation or sculptures; basketball hoops, swing sets, and similar sports and play equipment; clotheslines; garbage cans; wood piles; poles, signs, antennas and satellite dishes, utilities, water lines, sewer, electrical and gas distribution facilities, irrigation systems; heating, cooling and air circulation equipment and facilities, including window air conditioning units or fans; solar panels; exterior illumination; planting or removal of trees, shrubs, hedges, or other landscaping materials; and all other structures or landscaping improvements of every type and kind initially or at any time thereafter placed or constructed on any Lot.

1.22 "Lake": That certain body of water located adjacent to the Properties and more commonly known as Lake James and owned and controlled by Duke Energy.

1.23 "Lake Slip Lots" means those certain lots that are Leasehold Lots that are also entitled to ownership of a boat slip on the Lake (a "Boat Slip") pursuant to a sublease agreement (the "Lake Slip Sublease") between the Owner and the Declarant or Association after such assignment of the Lake Slip Sublease by the Declarant to the Association.

1.24 "Lake Use Restrictions": Regulations imposed by Duke Energy, together with any rules promulgated by the Board, for use and enjoyment of the Lake and the lakeshore; provided, however, that the more restrictive shall control.

1.25 "Legal Costs": The costs which a Person (including without limitation the Association) entitled to reimbursement for "Legal Costs" under any provision of the Governing Documents incurs in pursuing legal action (regardless of whether suit is filed or whether arbitration or court action is taken) to enforce the Governing Documents, including, but not limited to, reasonable attorneys' and paralegals' fees, expert witness fees, and court costs at all tribunal levels.

1.26 "Lot": A portion of the Properties, whether improved or unimproved, which may be independently owned, ground leased, or conveyed and which is intended for development, use, or occupancy as a recreational vehicle lot. The term shall refer to the land, if any, which is part of the Lot as well as any Improvements thereon. The term shall include within its meaning, by way of illustration but not limitation, vacant land intended for development as such, but shall not include property owned by the Association or property dedicated to the public.

The Properties shall have two types of Lots as defined below:

(a) “Deeded Lot” shall be a Lot that is conveyed or intended to be conveyed to the Owner in fee simple by deed. These will be Lots located outside of the 250-foot Lake James Protection Zone.

(b) “Leasehold Lot” shall be a Lot to which ground leasehold title has been conveyed or is intended to be conveyed to the Owner pursuant to the provisions of a long-term ground lease of at least five (5) years and no more than ninety-nine (99) years (provided, however, that each long-term ground lease may contain a renewal period of up to ninety-nine (99) years after expiration of the initial term) (each such leasehold interest pursuant to a defined as a “Long-Term Leasehold Interest” and each such long-term ground lease defined as a “Long-Term Ground Lease”). In the case of a Leasehold Lot, a memorandum of lease may be recorded to evidence the Long-Term Ground Lease in the Public Records. These will be Lots located within or partially within the 250-foot Lake James Protection Zone as set forth in the Zoning Ordinance.

References to “Lot” in this Declaration shall refer to both Deeded Lots and Leasehold Lots unless one of the aforementioned types of a Lot is identified specifically in the provision.

In the case of an unplatted parcel of land, the parcel shall be deemed to be a single Lot until such time as a subdivision plat or condominium plat is filed with respect to all or a portion of the parcel, provided that for Leased Lots, the plat will create the Leased Lot by showing of a broken-line boundary. Thereafter, the portion encompassed by such plat shall contain the number of Lots determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

1.27 “Majority”: Those votes, Owners, Members, or other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

1.28 “Master Plan”: The land use plan or development plan for “The Reserve at Barefoot Landing on Lake James” as such plan may be amended from time to time, which plan includes the property described on Exhibit “A” and all or a portion of the Additional Property described on Exhibit “B” that Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property described on Exhibit “B” from the Master Plan bar its later annexation in accordance with Article 7.

1.29 “Member”: A Person subject to membership in the Association pursuant to Section 3.1.

1.30 “Mortgage”: A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot.

1.31 “Mortgagee”: A beneficiary or holder of a Mortgage.

1.32 “Occupant”: The Owner(s) or lessee(s) of any Lot and their respective guests, family members, tenants, agents, contractors, licensees and invitees or any other Person who either lawfully or unlawfully occupies or comes upon such Lot.

1.33 “Owner”: One (1) or more Persons who hold the record title or a Long-Term Leasehold Interest to any Lot, including the Declarant, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner. If a Lot is owned by more than one Person, all such Persons shall be jointly and severally obligated to perform the responsibilities of such Owner.

1.34 “Person”: A natural person, a corporation, a partnership, a limited liability company, a fiduciary acting on behalf of another person or any other legal entity.

1.35 “Plat”: Any subdivision plat of any portion of the Properties recorded in the Public Records and the recorded plat of any Additional Property made subject to the provisions of this Declaration pursuant to the provisions hereof, and any amendments or supplements thereto. The Plat shall include, without limitation, that certain Major Subdivision of The Reserve at Barefoot Landing prepared by Lake Norman Surveying and Mapping, PLLC, and recorded in the Public Records on February 27, 2024, at Plat Book 42, Page 47, as revised by that certain “Major Subdivision of The Reserve at Barefoot Landing—Phase 1, Revision of Plat Book 42, Page 47” prepared by Lake Norman Surveying and Mapping, PLLC, and recorded in the Public Records on October 23, 2025, at Plat Book 46, Page 91.

1.36 “Private Amenity”: Any real property and any improvements and facilities thereon that are located adjacent to, in the vicinity of, or within the Properties, designated by Declarant, and owned and operated, in whole or in part, by Persons other than the Association for recreational or other purposes. The use of the term “Private Amenity” shall not be construed to imply or require a private club. Private Amenities may be operated on a club membership, daily fee, use fee, public, or private basis or otherwise. Notwithstanding the foregoing, Declarant as of the date of this Declaration has no plans to construct or add any Private Amenity to The Reserve at Barefoot Landing on Lake James.

1.37 “Properties” or “The Reserve at Barefoot Landing on Lake James”: The real property described on Exhibit “A” as such exhibit may be amended or supplemented from time to time to reflect any additions or removal of property in accordance with Article 7.

1.38 “Public Records”: The McDowell County, North Carolina Register of Deeds or such other place which is designated as the official location for recording of deeds and similar documents affecting title to real estate.

1.39 “SRB”: The Site Review Board, as described in Section 9.2.

1.40 “Site and Use Guidelines”: The design, architectural and construction guidelines and application and review procedures applicable to all or any portion of the Properties promulgated and administered pursuant to Article 9.

1.41 “Special Assessment”: Assessments levied in accordance with Section 8.4.

1.42 “Specific Assessment”: Assessments levied in accordance with Section 8.5.

1.43 “Supplemental Declaration”: An instrument filed in the Public Records which subjects Additional Property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.44 “Zoning Ordinance”: The Zoning Ordinance of McDowell County, North Carolina, and the Lake James Protective Ordinance of McDowell County, North Carolina, enacted by the County Commissioners of McDowell County, North Carolina, as may be amended and supplemented from time to time.

ARTICLE 2: PROPERTY RIGHTS

2.1 Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, which is appurtenant to and shall pass with the title or a Long-Term Leasehold Interest to each Lot, subject to:

- (a) This Declaration and all other Governing Documents;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
- (d) The right of the Association to rent, lease or reserve any portion of the Common Area to any Owner for the exclusive use of such Owner and such Owner's respective lessees, invitees, and guests upon such conditions, which conditions may include the payment of reasonable use fees, as may be established by the Board;
- (e) The right of the Board to suspend the right of an Owner to use any recreational and social facilities within the Common Area and Exclusive Common Area pursuant to Section 4.3;
- (f) The right of the Board to impose reasonable requirements and charge reasonable admission or other use fees for the use of any facility situated upon the Common Area;
- (g) The right of the Board to permit the exclusive use of any facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon such conditions, which conditions may include the payment of use fees, as may be established by the Board;
- (h) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (i) The right of the Association, acting through the Board, to dedicate or transfer all or any portion of the Common Area, subject to any approval requirements set forth in the Governing Documents;
- (j) The rights of certain Owners to the exclusive use, access and enjoyment of those portions of the Common Area designated "Exclusive Common Areas," as more particularly described in Section 2.3; and
- (k) The right of the Declarant to conduct activities and establish facilities within the Properties as provided in Article 13.

Any Owner may extend such Owner's right of use and enjoyment to the members of such Owner's family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases such Owner's Lot on a short-term basis shall be deemed to have assigned all such rights to the lessee of such Lot. Notwithstanding any assignment of such rights, the Owner shall remain responsible for payment of all assessments and other charges. An Owner who assigns a Long-Term Leasehold Interest subsequent purchaser shall be deemed to have transferred all of its rights to the assignee, who shall become the Owner of the Lot upon such assignment of the Long-Term Ground Lease.

2.2 Private Streets. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to, over and across any private streets and roads within the Properties ("Private Streets"), whether or not such Private Streets are Common Area, for the purpose of ingress and egress to public rights-of-way. The rights and nonexclusive easements granted herein are appurtenant to the title or a Long-Term Leasehold Interest to each Lot, subject to:

(a) This Declaration and all other Governing Document, including, without limitation, the Zoning Ordinance;

(b) The right of the Declarant, so long as the Declarant owns the Private Streets, to adopt, amend and repeal rules regulating the use and enjoyment of the Private Streets, provided that the Declarant shall not by the adoption of any rule or regulation bar access of the Owners across the Private Streets;

(c) The right of the Declarant to dedicate all or any part of Private Streets;

(d) The right of the Declarant to mortgage, pledge, or hypothecate any or all of the Private Streets as security for money borrowed or debts incurred, provided that the Declarant shall not subject the Private Streets to any security instrument without obtaining the agreement of the lender to subordinate its interest in the Private Streets to the easements for the Owners contained in this Section; and

(e) The rights of the Declarant and the Association to maintain the Private Streets.

Any Owner may extend such Owner's right of use and enjoyment to the members of such Owner's family, lessees, and social invitees, as applicable.

2.3 Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners and Occupants of specified Lots. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be assessed against the Owners of Lots to which the Exclusive Common Areas are assigned as a Specific Assessment, as applicable.

During the Development and Sale Period, any Exclusive Common Area shall be designated as such, and the exclusive use thereof shall be assigned, in the deed by which the Common Area is conveyed to the Association, or in this Declaration, or any Supplemental Declaration and/or on the subdivision Plat relating to such Common Area. Any such assignment shall not preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Lots during the Development and Sale Period. Following the termination of the Development and Sale Period, a portion of the Common Area may be assigned as Exclusive Common Area of particular Lots, and Exclusive Common Area may be reassigned upon approval of the Board and the vote of Members holding a Majority of the total Class "A" votes in the Association. Any reassignment of an Exclusive Common Area shall be set forth in a Supplemental Declaration executed by the Declarant and/or the Board, as appropriate, or shall be shown on a revised subdivision Plat relating to such Exclusive Common Area.

2.4 No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Section shall not prohibit the Board from acquiring and disposing of other real property which may or may not be subject to this Declaration.

2.5 Condemnation. The Association shall be the sole representative with respect to condemnation proceedings concerning Common Area and shall act as attorney-in-fact for all Owners in such matters. Whenever any part of the Common Area shall be taken by or conveyed under threat of condemnation to any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance. The Board may convey Common Area under threat of condemnation only if approved by Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association and, during the Development and Sale Period, the written consent of the Declarant. The award made for such taking or proceeds of such conveyance shall be payable to the Association.

If the taking or conveyance involves a portion of the Common Area on which Improvements have been constructed, the Association shall restore or replace such Improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) Days after such taking, Members holding at least sixty-seven percent (67%) of the total Class "A" votes of the Association and, during the Development and Sale Period, the Declarant shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board and the SRB. The provisions of Section 6.1(d) regarding funds for the repair of damage or destruction shall apply.

If the taking or conveyance does not involve any Improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds may be used by the Association for such purposes as the Board shall determine.

Notwithstanding the foregoing, should a Lot or a part thereof, or part of the Common Area, or any part of the Properties be acquired by eminent domain, the provisions of Section 47F-1-107 of the Act or any other applicable law as such exists at the time of such taking, shall apply to the taking and to the extent that this Declaration may be inconsistent with the provisions of the Act, the Act shall govern and control.

2.6 View Impairment. Neither the Declarant nor the Association guarantees or represents that any view from Lots over and across any other Lots, the Common Area or any view of the Lake will be preserved without impairment. The Association shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in its sole and absolute discretion, to add trees and other landscaping or to install Improvements or barriers (both natural and artificial) to the Common Area from time to time. In addition, the Declarant or Owners of Occupants Lots may, in its sole and absolute discretion, change the location, configuration, size and elevation of trees, landscaping, roof overs, other Improvements and barriers (both natural and artificial) from time to time. Any such additions or changes may diminish or obstruct any view from the Lots and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. Each Owner, by acceptance of a deed to a Deeded Lot or by accepting assignment of a Long-Term Leasehold Interest pursuant to a Long-Term Ground Lease to a Leasehold Lot, acknowledges that any view from the Lot as of the date of the purchase of the Lot may be impaired or obstructed by the natural growth of existing landscaping, the installation of additional trees, other landscaping or other types of Improvements or barriers (both natural and artificial) on the Common Area, the addition of roof overs within the Properties, and the construction of Improvements by other Owners upon their Lots.

2.7 Subdivision Plats. Declarant reserves the right to record, modify, amend, revise and add to, at any time and from time to time, Plats setting forth such information as Declarant may deem necessary with regard to the Properties, including, without limitation, the locations and dimensions of the Lots, Common Area, Additional Property, roads, utility systems, drainage systems, utility easements, drainage easements, access easements, and set-back line restrictions.

2.8 Lakes and Other Water Bodies. Each Owner acknowledges, understands and covenants to inform all Occupants of its Lot that the Lake, Lake water levels, and the lakeshore surrounding the Lake between the waterfront boundary of Lots as shown on Plats and the waterline of the Lake, is owned, controlled, and/or maintained by Duke Energy and that any decision concerning use of the Lake and such area shall be made in the discretion of Duke Energy. Neither the Declarant nor any Declarant-Related Entity shall in any way be liable or responsible for the water levels of the Lake, the depth of the Lake in any part of the Lake, of ensuring that the Lake is navigable for watercraft, or for depth under any of the Boat Slips. Each Person using the Lake shall do so only as permitted under the Lake Use Restrictions and applicable governmental laws, ordinances, rules and regulations. Neither the Association, Declarant, nor any Declarant Affiliate makes any guarantee that the Owners will have any rights to use the Lake. Provisions in this Declaration referencing use of the Lake shall not be construed or interpreted as representations that the Owners are or will be granted access to and use rights over the Lake.

Each Owner, by the acceptance of title or Long-Term Leasehold Interest to a Lot, acknowledges that owning property adjacent to the Lake has benefits as well as detriments and that the detriments may include, but are not limited to: (a) disturbance and loss of privacy resulting from use by third parties of the Lake and that portion of the lakeshore that is owned by Duke Energy; (b) the risk of damage or injury as described more fully below; and (c) view restrictions caused by maturation of trees and shrubbery. Neither Declarant, Declarant's Affiliates, the Association, the owner of any Private Amenity or the Lake shall have any obligation to take steps to remove or alleviate any such risks or detriments.

DECLARANT AND THE ASSOCIATION SHALL NOT BE OBLIGATED TO PROVIDE SUPERVISORY PERSONNEL, INCLUDING, BUT NOT LIMITED TO, LIFEGUARDS, FOR THE LAKE OR ANY OTHER WATERWAYS. ANY INDIVIDUAL USING THE LAKE OR ANY OTHER WATERWAYS SHALL DO SO AT HIS/HER OWN RISK AND HEREBY HOLDS DECLARANT, ANY PREDECESSOR DECLARANT, ANY DECLARANT AFFILIATE, AND THE ASSOCIATION HARMLESS FROM AND AGAINST ANY CLAIM OR LOSS ARISING FROM SUCH USE.

EACH OWNER, BY THE ACCEPTANCE OF TITLE OR A LONG-TERM LEASEHOLD INTEREST TO A LOT, ACKNOWLEDGES THAT THE LAKE AND OTHER WATERWAYS ARE DEEP AND DANGEROUS. NEITHER DECLARANT, ANY PREDECESSOR DECLARANT, DECLARANT'S AFFILIATES, THE ASSOCIATION NOR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES"), SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE SAFETY, WATER QUALITY OR WATER LEVEL OF/IN THE LAKE OR ANY WATERWAY WITHIN THE COMMUNITY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY, OR CONTRACTED WITH, AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. FURTHER, NONE OF THE LISTED PARTIES SHALL BE LIABLE FOR ANY AND ALL LOSSES, CLAIMS, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE, OR OTHERWISE), INJURIES, OR DEATHS, AND EXPENSES OF WHATEVER NATURE OR KIND, INCLUDING, WITHOUT LIMITATION, LEGAL COSTS, OCCURRING IN, OR OTHERWISE RELATED TO THE LAKE OR ANY WATER BODY, ALL PERSONS USING SAME DO SO AT THEIR OWN RISK. ALL OWNERS AND USERS OF ANY PORTION OF THE COMMUNITY SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF THE DEED TO A DEEDED LOT OR BY ACCEPTING ASSIGNMENT OF A LONG-TERM LEASEHOLD INTEREST PURSUANT TO A LONG-TERM GROUND LEASE TO A LONG-TERM LEASEHOLD LOT TO OR USE OF, SUCH PROPERTY, TO HAVE AGREED TO RELEASE THE LISTED PARTIES FROM ALL CLAIMS FOR ANY AND ALL CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN THE LAKE OR OTHER WATER BODIES. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE MAY HABITATE OR ENTER INTO THE LAKE OR WATER BODIES WITHIN OR NEARBY 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 OR INSURE AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

In accordance with the Duke Energy Lake Services Residential Marina Facilities permit Program, fifty percent (50%) of useable shoreline must be set aside as protected. Accordingly, the portion of the shoreline for The Reserve at Barefoot Landing on Lake James consisting of approximately 900 Feet (with 100' of Lake James Undisturbed Buffer) and 900 Feet (with 200' of Lake James Undisturbed Buffer) as shown more particularly described on the Plat as follows:

Being that shoreline on Lake James defined by:

(1) Including Line L9 through and including L28, all as shown on the Plat recorded in Plat Book B42, Page 47. **900 feet with a continuous 100-foot undisturbed upland buffer**

(2) Including Line L41 through and including L59, all as shown on the Plat recorded in Plat Book B42, page 47, **900 feet with a continuous 200-foot undisturbed upland buffer**

The actual total of the protected shoreline is 1,800 feet and 5.563 acres of Lake James undisturbed buffer.

The shoreline, as described herein, is set aside for compliance with the said permit program and shall remain undisturbed and left in its natural state without any improvements or construction of any type. This restriction shall be binding upon any and all Owners within The Reserve at Barefoot Landing on Lake James.

ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner shall be a Member of the Association. There shall be only one (1) membership per Lot. If a Lot is owned or leased pursuant to a Long-Term Ground Lease by more than one (1) Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.2(d) and in the By-Laws. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, member, manager, partner or trustee of such Owner, or by any individual designated from time to time by the Owner in a written instrument provided to the secretary of the Association.

3.2 Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Each Class "A" Member shall have one (1) equal vote for each Lot in which he or she holds the interest required for membership under Section 3.1; provided however, there shall be only one (1) vote per Lot and no vote shall be exercised for any property which is exempt from assessment under Section 8.9. All Class "A" votes shall be cast as provided in Section 3.2(d) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" Member may appoint all of the members of the Board of Directors until the first to occur of the following:

(i) when one hundred percent (100%) of the total number of Lots permitted by the Master Plan for the property described on Exhibits "A" and "B" have approved recreational vehicles situated thereon and have been conveyed to Persons other than Declarant;

(ii) December 31, 2056; or

(iii) when, in its discretion, the Class "B" Member so determines and voluntarily relinquishes such right.

Notwithstanding the foregoing, however, the Class "B" Member shall continue to have the right to appoint all members of the Board of Directors even if the events described in item (i) and item (ii) above occur if either the Declarant or a Declarant-Related Entity owns any Lot.

At such time, the Class "B" membership shall terminate, and the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Lot which it owns. After termination of the Class "B" membership, the Declarant shall have a right to disapprove actions of the Board, the SRB, and committees as provided in the Declaration.

(c) Additional Classes of Membership. The Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Lots within any Additional Property made subject to this Declaration pursuant to Article 7, with such rights, privileges and obligations as may be specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

(d) Exercise of Voting Rights. If there is more than one (1) Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it. No vote shall be exercised on behalf of any Lot if any assessment for such Lot is delinquent.

ARTICLE 4: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1 Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility and all Improvements thereon. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may adopt pursuant to Article 10. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of North Carolina.

4.2 Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees, with the Declarant's prior written consent, may convey to the Association improved or unimproved real estate, or interests in real estate, located within the property described in Exhibits "A" or "B," personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed, assignment of ground lease, or other instrument transferring such property to the Association. Declarant shall not be required to make any Improvements or repairs whatsoever to property to be conveyed and accepted pursuant to this Section. Upon written request of Declarant, the Association shall reconvey to Declarant any portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in

error or needed by Declarant to make adjustments in property lines, provided that the reconveyance has no material adverse effect upon the rights of the Owners.

The Association agrees that the Common Area, including all Improvements thereon, shall be conveyed in its "where is, as is" condition and without recourse, and Declarant disclaims and makes no representations, warranties or other agreements express or implied with respect thereto, including without limitation, representations or warranties of merchantability or fitness for the ordinary or any particular purpose, and representations or warranties regarding the conditions, design, construction, accuracy, completeness, adequacy of the size or capacity in relation to utilization or the future economic performance or operations of the Common Area. No claim shall be made by the Association or any Owner relating to the condition, operation, or completeness of the Common Area or for incidental or consequential damages arising therefrom. Declarant will transfer and assign to the Association, without recourse, all warranties which it receives from manufacturers and suppliers relating to any of the Common Area which exist and are assignable.

Pursuant to Section 47F-3-112 of the Act and notwithstanding anything to the contrary contained herein, the Association may convey or encumber by security interest all or any portion of the Common Area if persons entitled to cast at least eighty percent (80%) of the votes in the Association agree in writing to such action. In addition, Exclusive Common Area may be conveyed pursuant to the provisions set forth in Section 47F-3-112 (a) of the Act. Proceeds of the sale or financing of either Common Area or Exclusive Common Area shall be disbursed in accordance with the Act.

Pursuant to Section 47F-3-112 (b) of the Act, the Association, on behalf of the Owners may contract to convey the Common Area or the Exclusive Common Area or to subject the same to a security interest, but the contract shall not be enforceable against the Association until approved pursuant to Section 47F-3-112 (a) of the Act. Once such approval is obtained, the Association shall have all powers necessary and appropriate to effect the conveyance or encumbrance, free and clear of any interest of any Lot Owner or the Association in or to the Common Area or Exclusive Common Area conveyed or encumbered, including the power to execute deeds or other instruments. Any purported conveyance, encumbrance, or other voluntary transfer of Common Area or Exclusive Common Area, unless made pursuant to this Section 4.2, and the Act shall be void. No conveyance or encumbrance of Common Area or Exclusive Common Area may deprive any Lot of its rights to access and support.

4.3 Enforcement. The Board or any committee established by the Board, with the Board's approval, may impose sanctions for violation of the Governing Documents after compliance with the notice and hearing procedures set forth in the By-Laws. Such sanctions may include, without limitation:

- (a) imposing monetary fines which shall constitute a lien upon the Lot of the violator;
- (b) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;
- (c) suspending an Owner's right to vote;
- (d) suspending any Person's right to use any recreational facilities within the Common Area and any part of the Exclusive Common Area; provided however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot; and

(e) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) Days delinquent in paying any assessment or other charge owed to the Association.

In the event that any Occupant, guest or invitee of a Lot violates the Governing Documents, the Board or any committee established by the Board, with the Board's approval, may sanction such Occupant, guest or invitee and/or the Owner of the Lot that the violator is occupying or visiting. If a fine is imposed, the fine may first be assessed against the Occupant; provided however, if the fine is not paid by the Occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.

In addition, the Board, or the covenants committee if established, may elect to enforce any provision of the Governing Documents by exercising self-help (specifically including, but not limited to, the filing of liens in the Public Records for non-payment of assessments and other charges, the towing of vehicles that are in violation of parking rules, the removal of pets that are in violation of pet rules, or the correction of any maintenance, construction or other violation of the Governing Documents) without the necessity of compliance with the procedures set forth in the By-Laws. The Association may levy Specific Assessments to cover all costs incurred in exercising self-help and in bringing a Lot into compliance with the terms of the Governing Documents.

The Association may also elect to enforce any provisions of the Governing Documents by suit at law to recover monetary damages or in equity to enjoin any violation or both without the necessity of compliance with the procedures set forth in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Association to enforce the provisions of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, reasonable attorneys' fees and court costs, incurred in such action, regardless of whether suit is filed and including any appeals.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or prevent the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce county, township, state and federal laws and ordinances, if applicable, and permit local and other governments to enforce laws and ordinances on the Properties for the benefit of the Association and its Members.

Nothing in this Section 4.3, Section 8.8 hereinbelow or elsewhere in this Declaration shall contravene any rights granted to Owners by the Act or any other applicable federal, state, or local law or regulation. To the extent that anything in this Declaration is in conflict with any such legal requirement, this Declaration shall apply to the fullest extent possible in accordance with the Act or any other applicable law.

It is the intent of the provisions of this Declaration to comply with the Act, and, in the event of repeal of or amendment to the Act, the Association, and during the Development and Sale Period, the Declarant shall have the right to amend this Declaration to comply with the Act.

4.4 Implied Rights: Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5 Governmental Interests. During the Development and Sale Period, the Declarant may designate sites within the Properties for fire, police, and utility facilities, public schools and parks, streets, and other public or quasi-public facilities. No membership approval shall be required for such designation. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. The sites may include other property not owned by Declarant or the Association, provided the owner of such property consents.

4.6 Indemnification. The Association shall indemnify every officer, director, SRB member and committee member against all damages, liabilities, and expenses, including reasonable attorneys' fees, incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, SRB member or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles of Incorporation and North Carolina law.

The officers, directors, SRB members and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors, SRB members, and committee members shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers, directors, SRB members or committee members may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director, SRB member and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, SRB member or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.7 Dedication of or Grant of Easements on Common Area. The Association may dedicate or grant easements across portions of the Common Area to McDowell County, North Carolina, or to any other local, state, or federal governmental or quasi-governmental entity, or to any public or private utility company.

4.8 Security. Each Owner and Occupant of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Properties. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system or measure cannot be compromised or circumvented, nor that any such system or security measure undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. No representation or warranty is made that the lighting facilities or systems

(including the placement thereof) will adequately illuminate or attempt to adequately illuminate all of the Common Areas, or that such facilities or systems will be designed with safety measures in mind. Each Owner acknowledges, understands and covenants to inform its tenants and all Occupants of its Lot that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers or guarantors of safety and security within the Properties and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

4.9 Trails. The Declarant reserves for itself, its successors and assigns, and the Association, the right to designate certain areas within the Properties, including the Common Area, to be used as recreational bike, pedestrian and/or trails ("trail system"). The Declarant reserves the right to restrict the use of certain pathways and trails to specific uses or to otherwise prohibit certain uses. Each Owner acknowledges, understands and covenants to inform the Occupants of such Owner's Lot, that the Properties may contain a trail system and that there may be certain inconveniences and loss of privacy associated with the ownership of Lots adjacent to such trail system resulting from the use of the trail system by the Declarant, the Association, its Members, Occupants, their tenants, guests and invitees and the public.

4.10 Relationship With Tax-Exempt Organizations. The Declarant or the Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to non-profit, tax-exempt organizations, including but not limited to the Conservation Trust, for the benefit of the Properties. The Association may contribute money, real or personal property or services to any such entity. Any such contribution shall be a Common Expense and included as a line item in the Association's annual budget. For the purposes of this Section a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code, including but not limited to, Sections 501(c)(3) or 501(c)(4) thereof.

4.11 Provision of Services. The Association may provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense. In addition, the Board shall be authorized to charge use and consumption fees for services and facilities through Specific Assessments or by requiring payment at the time the service or facility is provided. As an alternative, the Association may arrange for the costs of the services and facilities to be billed directly to Owners by the provider(s) of such services and facilities. By way of example, some services and facilities which may be provided include concierge services, landscape maintenance, garbage collection, pest control service, cable, digital, satellite or similar television service, internet, intranet, and other computer related services, security, caretaker, fire protection, utilities, and similar services and facilities. The Board, without the consent of the Class "A" Members of the Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein can be relied upon as a representation as to the services and facilities, if any, which will be provided by the Association.

4.12 Rezoning. No Owner or any other Person may apply or join in an application to amend, vary or modify or seek relief from the Zoning Ordinance applicable to the Properties or rezone or apply for any zoning variance or waiver as to all or any portion of the Properties without the prior written consent of Declarant. Each Person that acquires any interest in the Properties acknowledges that The Reserve at Barefoot Landing on Lake James is a master planned community, the development of which is likely to extend over many years, and agrees not to protest or challenge (a) changes in uses or density of

property, or (b) changes in the Master Plan relating to property. Declarant may apply for such rezoning as to any portion of the Properties owned by it at any time.

4.13 Presence and Management of Wildlife. Each Owner and Occupant, and each tenant, guest and invitee of any Owner or Occupant acknowledges that the Properties are located adjacent to and in the vicinity of wetlands, bodies of water and other natural areas. Such areas may contain wildlife, including without limitation, snakes. Neither the Association, the Board, the original Declarant, nor any successor Declarant shall be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence of such wildlife on the Properties. Each Owner and Occupant of a Lot and each tenant, guest, and invitee of any Owner or Occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of such wildlife and further acknowledges that the Association, the Board, the original Declarant or any successor Declarant have made no representations or warranties, nor has any Owner or Occupant, or any tenant, guest, or invitee of any Owner or Occupant relied upon any representations or warranties, expressed or implied, relative to the presence of such wildlife.

The Declarant, acting in its sole and absolute discretion, retains the right, but not the obligation, to engage in wildlife and fishery management plans and practices on the Properties to the extent that such practices are permitted by applicable state and federal law. The Declarant may assign these management rights to the Association in which event the expenses of such activities shall be funded by General Assessments.

4.14 Conveyance or Dedication of Common Area and/or Roads. The Association, or the Declarant during the Development and Sale Period, may dedicate or convey portions of any Common Area and/or roads within The Reserve at Barefoot Landing on Lake James to McDowell County, North Carolina, or to any other local, state, or federal governmental or quasi-governmental entity without obtaining any membership approval. Any dedication of roadways or other property shall be made free and clear of all encumbrances, including but not limited to, this Declaration unless otherwise agreed to by the governmental or quasi-governmental entity. Notwithstanding the foregoing, each Owner, on behalf of itself and its Occupants agrees to comply with any and all use restrictions, rules, covenants, and restrictions established pursuant to the Governing Documents, including but not limited to provisions regarding vehicles, parking, street vending, and use of any dedicated roadways and other property.

4.15 Access by General Public. Certain facilities and areas within the Properties may be open for use and enjoyment of the public, whether by operation of law or by designation as provided in this Section. Such facilities and areas may include, by way of example, lodging facilities, recreational facilities, greenbelts, trails and paths, roads, sidewalks, medians, parks, and other spots conducive to gathering and interaction. The Declarant may designate such facilities and areas as open to the public during the Development and Sale Period, or the Board may so designate at any time thereafter. Use of such facilities and areas shall be subject to the reasonable rules and regulations of the Association. Each Owner acknowledges, understands and covenants to inform the Occupants of such Owner's Lot, that the Properties may contain such public areas and that there may be certain inconveniences and loss of privacy associated with the ownership of Lots near or adjacent to such public areas resulting from the use of public areas by the Declarant, the Association, its Members, Occupants, their tenants, guests and invitees and the public.

4.16 Future Development. Each Owner acknowledges, understands and covenants to inform all Occupants of its Lot that the Properties and areas adjacent to the Properties are subject to further development and expansion, and therefore, there may be certain inconveniences during any period of construction. Each Owner, on behalf of such Owner and the Occupants of such Owner's Lot, waives all claims with respect thereto. Each Owner acknowledges and agrees that if Owner or Owner's Occupants

enter onto any area of construction, they do so at their own risk, and that the Declarant, the Association, and their respective contractors, agents or employees shall not be liable for any damage, loss or injury to such Persons.

Notwithstanding anything contained in any written letter, document or materials, or oral statement received by any Owner, each Owner acknowledges and agrees that the present plans and themes for the development of The Reserve at Barefoot Landing on Lake James may change and that such Owner has not relied on any representation, warranty, or assurance by any Person (a) that any Lots, Boat Slips, access to Boat Slips, or other property or facilities, will be added, modified, or eliminated within the Properties; or (b) as to the financial or other impact of such action on any Owner. Each Owner acknowledges and agrees that it is not entitled to rely upon and has not received or relied upon any representations, warranties, or guarantees whatsoever as to the current or future: (a) design, construction, completion, development, use, benefits, or value of property within The Reserve at Barefoot Landing on Lake James; (b) number, types, sizes, prices, or designs of any residential or non-residential Improvements built or to be built in any part of The Reserve at Barefoot Landing on Lake James; or (c) use or development of any property adjacent to or within the vicinity of The Reserve at Barefoot Landing on Lake James. Declarant may add access to or alter access to the Boat Slips. Declarant shall have the right to dedicate future easements as needed by the Declarant for future development.

4.17 Opportunities for Community Interaction. The Association may provide or contract for services and facilities The Association may make use of computers, the internet, and expanding technology to facilitate interaction and encourage participation in Association activities. For example, the Association may create and maintain a community intranet or internet home page, maintain an "online" newsletter or bulletin board, and offer other technology-related services and opportunities for Owners and Occupants to interact and participate in Association-sponsored activities. To the extent North Carolina law permits, and unless otherwise specifically prohibited in the Governing Documents, the Association may send notices electronically, hold interactive web conferencing Board or Association meetings permitting attendance and voting by electronic means, and electronically send and collect assessments and other invoices.

4.18 Community Education and Training. In recognition of the fact that Owners and other residents who are well-informed regarding their community's structure and governance and their rights and responsibilities in the community, have greater capacity to participate in civic life and in the affairs of the community, the Board may establish education, training, and orientation programs relating to community governance, including "continuing" education programs, for everyone in the Properties. The Board may utilize any appropriate method to achieve these education goals, including a community intranet, learning centers, computer centers, business centers, and coordinated activities with Association committees and Board members.

Community education may begin as early as the marketing stage or the point of sale of property within the Properties and may include orientation classes regarding community structure and governance; the nature, extent, and purpose of the covenants, rules, and regulations; and community-building issues such as the mission for The Reserve at Barefoot Landing on Lake James, opportunities to participate in and affect the community's evolution and growth, and general community orientation.

Community governance education is an essential component of living in the Properties. Educating Owners regarding ownership rights, voting privileges, property use restrictions, assessment responsibility, community development, developer turn over or transition, and community activities, should be an ongoing innovative process geared toward including residents of all ages. Governance education may be offered in the form of seminars, simple question and answer pamphlets, audio/video recordings, through a community cable channel, or through an interactive website. The Board may also

coordinate with nationally recognized organizations such as the Urban Land Institute or the Community Associations Institute to offer programs regarding community governance or coordinate with nationally recognized speakers in the field to provide community governance instruction and workshops.

4.19 Community Activities and Clubs. In recognition of the fact that volunteering activities benefit both The Reserve at Barefoot Landing on Lake James and the larger community, the Association may promote a volunteer ethic and encourage and facilitate the organization of volunteer organizations within The Reserve at Barefoot Landing on Lake James. To accomplish this end, the Association may grant incentives for volunteering, such as exemptions from specific program fees and public recognition of distinguished volunteers and their achievements. The Association also may cooperate with and support outside organizations, such as recreational leagues or cultural organizations, by making facilities available for the organization's use or sponsoring the organization's activities. Additionally, the Association may compile and maintain a data bank of Owners and Occupants interested in volunteering and make such data available to other volunteer organizations.

The Association, in its sole and absolute discretion, may establish or support the establishment of "charter clubs" to encourage or facilitate the gathering of people to pursue common interests or hobbies. A charter shall confer privileges and impose responsibilities on the club and its members. For example, the Association may grant privileges including financial support, material support, facility use privileges, either with or without charge, priority for facility use, administrative and technical support, and liability insurance coverage.

The Association may grant charters to any group of individuals who share a particular field of interest. Any Owner or Occupant may submit a written request to the Association for a charter. In its sole and absolute discretion, the Association may grant or deny such request. The Association may fund the charter club as a Common Expense and/or require that club members pay use or consumption fees for materials, facilities use, or other club expenses.

The Association may use computer bulletin boards, websites, and publications to assist charter clubs and other community groups, religious groups, civic groups, youth organizations, and support groups in publicizing meetings, events, and the need for volunteer assistance. However, the Association may not fund the specific advertising or promotion of a charter club's events or another volunteer group's events, unless the Association, in its sole and absolute discretion, determines that such events or organizations benefit the entire community.

ARTICLE 5: MAINTENANCE

5.1 Association's Responsibility.

(a) The Association shall maintain and keep in good condition, order and repair the Area of Common Responsibility, which may include, but need not be limited to:

- (i) all Common Area;
- (ii) all landscaping and other flora, parks, ponds and other water bodies, structures, and improvements, including any entry features, private streets, shared driveways, parking areas, sidewalks, bike and pedestrian pathways/trails situated upon the Common Area;
- (iii) all furnishings, equipment and other personal property of the Association;

(iv) any landscaping and other flora, parks, bike and pedestrian pathways/trails, sidewalks, buffers, entry features, structures and improvements within public rights-of-way within or abutting the Properties or upon such other public land adjacent to the Properties as deemed necessary in the discretion of the Board;

(v) such additional portions of any property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any Cost Sharing Agreement, the Zoning Ordinance, or any contract or agreement for maintenance thereof entered into by the Association;

(vi) all ponds, streams and/or wetlands located within the Properties which serve as part of the drainage and storm water retention system for the Properties, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith unless such facilities are located within a Private Amenity and are maintained by the owner of the Private Amenity; and

(vii) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

(b) Declarant may establish specific minimum standards for the maintenance, operation and use of any Area of Common Responsibility in the Governing Documents and/or in the deed or other instrument transferring the property to the Association. Such standards shall become part of the Community-Wide Standard. These standards may contain general provisions applicable to all of the Area of Common Responsibility, as well as specific provisions which vary from one portion of the Area of Common Responsibility to another depending upon the nature of any Improvements located thereon, intended use, location, and/or unique characteristics.

(c) The Association may, as a Common Expense, maintain other property and Improvements which it does not own, including, without limitation, property dedicated to the public, or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(d) The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole and absolute discretion of the Board, to perform required maintenance or repairs, unless Members holding sixty-seven percent (67%) of the Class "A" votes in the Association and during the Development and Sale Period the Declarant agree in writing to discontinue such operation.

(e) The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is otherwise assumed by or assigned to an Owner or (ii) such property is dedicated to any local, state, or federal government or quasi-governmental entity; provided however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means during the Development and Sale Period except with the written consent of the Declarant.

(f) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Lots as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to the Governing Documents, any recorded covenants, or any agreements with the owner(s) thereof.

(g) In the event that the Association fails to properly perform its maintenance responsibilities hereunder and to comply with the Community-Wide Standard, the Declarant may, upon not less than ten (10) Days' notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, shall be entitled to reimbursement from the Association for all costs incurred.

5.2 Owner's Responsibility. Each Owner shall maintain such Owner's Lot, and all structures, parking areas, sprinkler and irrigation systems, landscaping and other flora, and other Improvements on the Lot in a manner consistent with the Community-Wide Standard and all Governing Documents, including, without limitation, the Zoning Ordinance, unless such maintenance responsibility is otherwise assumed by or assigned to the Association. In addition to any other enforcement rights, if an Owner fails properly to perform such Owner's maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner in accordance with Section 8.5(c). The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation. Entry under this Section shall not constitute a trespass.

5.3 Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all Governing Documents, including, without limitation, the Zoning Ordinance. Neither the Association nor any Owner shall be liable for any damage or injury occurring on, or arising out of the condition of, property which such Person does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

ARTICLE 6: INSURANCE AND CASUALTY LOSSES

6.1 Association Insurance.

(a) Required Coverages. Not later than the time of the first conveyance of or entry into a Long-Term Ground Lease of a Lot to a Person other than Declarant, the Association, acting through its Board, (or at Declarant's sole election, the Declarant may procure the insurance on the Association's behalf and be reimbursed by the Association during any period of time during which the Class "B" membership shall exist), shall obtain and continue in effect such types of insurance as set forth in Section 47F-3-113 of the Act, which shall include provisions required by Section 47F-3-113 (c) of the Act, the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable

Improvements on the Common Area, if any, and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The total amount of insurance after application of any deductibles shall not be less than eighty percent (80%) of the replacement costs of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other terms normally excluded from insurance policies. The Association shall have the authority to and interest in insuring any property for which it has maintenance or repair responsibility, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured Improvements;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least one million dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage, provided should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth (1/6th) of the annual General Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in its best business judgment, determines advisable, which may include, without limitation, flood insurance.

In the event that any portion of the Common Area is or shall become located in an area identified by the Federal Emergency Management Agency ("FEMA") as an area having special flood hazards, a "blanket" policy of flood insurance on the Common Area must be maintained in the amount of one hundred percent (100%) of current "replacement cost" of all affected Improvements and other insurable property or the maximum limit of coverage available, whichever is less.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the General Assessment. In the event of an insured loss, the deductible shall be treated as a Common Expense and assessed in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss resulted from the negligence or willful misconduct of one (1) or more Owners, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Lots pursuant to Section 8.5.

The Association shall have no insurance responsibility for any portion of the Private Amenities.

(b) Policy Requirements. The Association shall arrange for periodic reviews of the sufficiency of insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the McDowell County, North Carolina area.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and to each Member upon written request. The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 6.1(a).

(i) All insurance coverage obtained by the Board shall:

(1) be written with a company authorized to do business in the State of which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(2) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Areas shall be for the benefit of the Association and its Members; each Member shall be an insured person under the policy to the extent of the Member's insurable interest;

(3) not be brought into contribution with insurance purchased by Owners, Occupants, or their Mortgagees individually;

(4) contain an inflation guard endorsement;

(5) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(6) require at least thirty (30) Days prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(7) provide that the insurer waives its rights to subrogation under the policy against any Owner or member of the Owner's household;

(8) provide that no act or omission by any Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will preclude recovery under the policy; and

(9) provide that if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(ii) In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(1) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and manager, the Owners and their tenants, servants, agents, and guests;

(2) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(3) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one (1) or more individual Owners, or on account of any curable

defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(4) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(5) a cross-liability provision; and

(6) a provision vesting the Board with the exclusive authority to adjust losses; provided however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Disbursement of Proceeds. Any loss covered by the property policy described under this Section 6.1 shall be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any mortgagee or beneficiary under the deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for Owners and lienholders as their interests may appear. Subject to the provisions of subsection (d) below, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the planned community is terminated.

(d) Damage and Destruction. In the event of any insured loss covered by insurance held by the Association, only the Board or its duly authorized agent may file and adjust insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this subsection, means repairing or restoring the property to substantially the condition existing prior to the damage, allowing for changes or Improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed promptly by the Association unless (i) the planned community is terminated; (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (iii) the Members holding at least eighty percent (80%) of the total Class "A" votes in the Association, including one hundred percent (100%) approval of Owners assigned to any affected Exclusive Common Area decide not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves shall be a Common Expense. If any portion of the Common Area is not repaired or replaced, (i) the insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition compatible with the remainder of the Properties; and (ii) the remainder of the proceeds shall be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Common Expense liabilities of all the Lots. Notwithstanding the above, Section 47F-2-118 of the North Carolina Planned Community Act (termination of the planned community) governs the distribution of insurance proceeds if The Reserve at Barefoot Landing on Lake James is terminated.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative Improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 6.1(a).

6.2 Owners' Insurance. By virtue of taking title or a Long-Term Leasehold Interest to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry liability insurance in reasonable amounts and property insurance for the full replacement cost of all insurable Improvements on such Owner's Lot, less a reasonable deductible, unless the Association carries such insurance (which it may, but is not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefitted Lot and the Owner thereof pursuant to Section 8.5. Notwithstanding the foregoing, an Owner may request to the Association a waiver from the requirement to purchase a separate policy covering the Lot by instead procuring an umbrella policy that Owner can demonstrate provides coverage to the Lot.

Each Owner shall provide the Association with a certificate of insurance within thirty (30) days after becoming an Owner. Prior to the expiration date of each policy required, Owner shall renew each policy and pay the renewal premiums for such policy and shall deliver to the Association a certificate of insurance. Notwithstanding the foregoing, if the Association requests in writing, Owner shall provide the Association with a copy of the original policy evidencing compliance with this Declaration within ten (10) days of the Association's request.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures or landscaping on or comprising such Owner's Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure or landscaping consistent with the original construction or such other plans and specifications as are approved in accordance with Article 9. Alternatively, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

6.3 Limitation of Liability. Notwithstanding the duty of the Association to maintain and repair portions of the Common Area, neither the Association, its Board of Directors, its successors or assigns, nor any officer or director or committee member, employee, agent, contractor (including the management company, if any) of any of them shall be liable to any Member or any member of a Member's immediate household for any injury or damage sustained in the Area of Common Responsibility, the Common Area or other area maintained by the Association, or for any injury or damage caused by the negligence or misconduct of any Members or their family members, guests, invitees, agents, servants, contractors or lessees, whether such loss occurs in the Common Area or in individual Lots.

Each Owner, by virtue of the acceptance of title or a Long-Term Leasehold Interest to such Owner's Lot, and each other Person having an interest in or right to use any portion of the Properties, by virtue of accepting such interest or right to use, shall be bound by this Section and shall be deemed to have automatically waived any and all rights, claims, demands, and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed under this Section.

ARTICLE 7: ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1 Annexation by Declarant. Until thirty (30) years after the recording of this Declaration in the Public Records, Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the Additional Property. The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real

property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing the property being annexed. Such Supplemental Declaration shall not require the consent of the Members, but shall require the written consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Declarant intends to develop the Properties in accordance with the Master Plan, but reserves the right to modify the Master Plan and any Plat or any portion of the Properties from time to time in its discretion and at its option. Declarant shall not be required to follow any predetermined order of improvement and development within the Master Plan or Properties, and it may annex Additional Property and develop it before completing the development of the Properties. Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the Additional Property in any manner whatsoever.

7.2 Annexation by Membership. The Association may annex any real property to the provisions of this Declaration with the written consent of the owner of such property, the affirmative vote of Members holding a Majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and, during the Development and Sale Period, the written consent of the Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Records. Any such Supplemental Declaration shall be signed by the president and the secretary of the Association, and by the owner of the property being annexed, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3 Withdrawal of Property. The Declarant reserves the right to amend this Declaration during the Development and Sale Period for the purpose of removing any portion of the Properties from the coverage of this Declaration, provided such withdrawal is not contrary to the overall, uniform scheme of development for the Properties. By way of example, and not limitation, of the foregoing, a removal of property for the purpose of (i) adjusting boundary lines, (ii) complying with any applicable governmental statute, rule, regulation or judicial determination, (iii) enabling any reputable title insurance company to issue title coverage regarding the Properties or on any portion thereof, (iv) enabling any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Lots, (v) satisfying the requirements of any local, state or federal governmental agency, or (vi) exempting any tracts of land, either designated now or in the future for nonresidential development, from the provisions of this Declaration, shall be deemed as a permissible withdrawal which is not inconsistent with the overall uniform scheme of development. Such amendment shall not require the consent of any Person other than the owner of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall execute a written consent to such withdrawal.

7.4 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrently with or after the annexation of the subject property,

and shall require the written consent of the owner(s) of such property, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property for such purposes as deemed appropriate in the Declarant's sole and absolute discretion, including but not limited to modifications to reflect the different character and intended use of such property.

7.5 Amendment. This Article shall not be amended during the Development and Sale Period without the prior written consent of Declarant.

ARTICLE 8: ASSESSMENTS

8.1 Creation of Assessments. There are hereby created assessments for Association expenses as the Board may specifically authorize from time to time. There shall be three (3) types of assessments: (a) General Assessments to fund Common Expenses for the general benefit of all Lots; (b) Special Assessments as described in Section 8.4; and (c) Specific Assessments as described in Section 8.5. Each Owner, by accepting a deed to a Deeded Lot, by accepting assignment of a Long-Term Leasehold Interest pursuant to a Long-Term Ground Lease to a Leasehold Lot or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments and other charges, together with interest, late charges, costs of collection, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Lot against which the assessment or charge is made until paid, as more particularly provided in Section 8.6. Each such assessment or charge, together with interest, late charges, costs, and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title or assignment of a Long-Term Leasehold Interest to a Lot, the grantee or assignee, as applicable, shall be jointly and severally liable for any assessments and other charges due at the time of conveyance or assignment. However, no first Mortgagee who obtains title or a Long-Term Leasehold Interest to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Pursuant to Section 47F 3-118(b) of the Act, the Association shall, upon request, furnish to any Owner liable for any type of assessment a written statement signed by an Association officer or designee setting forth whether such assessment has been paid. Such statement shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such statement.

Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price differentials. The Board may require advance payment of assessments at closing of the transfer of title or a Long-Term Leasehold Interest to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two (2) or more installments. Unless the Board otherwise provides, the General Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on such Owner's Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any assessment or installment thereof shall be considered delinquent on the fifteenth (15th) day following the due date unless otherwise specified by Board resolution.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, including Exclusive Common Area reserved for such Owner's use, abandonment or short-term leasing of such Owner's Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off

shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action taken by the Association or Board.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

Pursuant to Sections 47F-3-115 (d) - (f) of the Act, assessments to pay a judgment against the Association may be made only against the Lots that existed at the time the judgment was entered, with such assessment to be apportioned equally as provided for in this Declaration. If any expense in maintaining the Common Area or other expense of the Association required by the Governing Documents is caused by the negligence or misconduct of any Owner or Occupant, the Association may assess that expense exclusively against that particular Owner's or Occupant's Lot as a Specific Assessment pursuant to Section 8.6 hereinbelow. If the Association reallocates the apportionment of assessments to a different allocation than as set forth in this Declaration, assessments not yet due and payable shall be recalculated in accordance with such reallocation.

8.2 Computation of General Assessments. At least thirty (30) Days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, which may include a contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 8.3.

General Assessments shall be levied equally against all Lots subject to assessment and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including any reserves. In determining the level of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years, any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year, and any income or expense expected to be generated from any Cost Sharing Agreement.

During the Development and Sale Period, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy and/or contributions of services and materials, which may be treated as either a contribution or an advance against future sums due from the Declarant, or a loan, in the Declarant's discretion. Any such anticipated payment or contribution by the Declarant shall be disclosed as a line item in the Common Expense budget. Payments by the Declarant in any year shall under no circumstances obligate the Declarant to continue such payments in future years unless otherwise provided in a written agreement between the Association and the Declarant.

In accordance with Section 47F-3-103(c) of the Act, within thirty (30) Days after adoption of any proposed budget, the Board shall provide to all Owners a summary of the budget and 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 a meeting of the Owners to consider ratification of the budget, such meeting to be held not less than ten (10) or 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, Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association reject the budget or, during the Development and Sale Period, the Declarant rejects the budget. In the event the proposed budget is rejected, or if the Board fails for any reason to determine the budget for any year, then 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. In such event or if the budget proves inadequate for any reason, the Board may prepare a revised budget for the remainder of the

fiscal year. The Board shall send a copy of the revised budget to each Owner at least thirty (30) Days prior to its becoming effective. The revised budget shall become effective unless disapproved in accordance with the above procedure.

Notwithstanding anything to the contrary contained herein, pursuant to Section 47F-1-105 of the Act, any extraterritorial common property taxed pursuant to N.C.G.S.A. 105-277.8 shall be assessed, pro rata, among the Owners based on the number of Lots in the Association.

8.3 Reserve Budget. The Board may, in its sole and absolute discretion, annually prepare reserve budgets for general purposes which take into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the general budgets reserve amounts sufficient to meet the projected needs of the Association.

8.4 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against all Lots, if such Special Assessment. Special Assessments shall be allocated equally among all Lots subject to such Special Assessment. Any Special Assessment shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class "A" votes allocated to Lots which will be subject to such Special Assessment and, during the Development and Sale Period, by the Declarant. All other Special Assessments shall become effective upon approval by the Board. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Members as provided for in the By-Laws, which petition must be presented to the Board within twenty (20) Days after the date of the notice of such Special Assessment. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5 Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Lot or Lots as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot(s) or Occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and Occupants (which might include, without limitation, concierge services, landscape maintenance, garbage collection, cable, digital, satellite or similar television service, internet, intranet, and other computer related services, security, caretaker, fire protection, utilities and similar services and facilities), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner;

(b) to cover the costs associated with maintenance, repair, replacement and insurance of any Exclusive Common Area assigned to one (1) or more Lots;

(c) to cover all costs incurred in bringing the Lot(s) into compliance with the terms of the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or Occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; and

(d) to cover the fees, costs and charges due to the Association from Owners of Lot subject to a Lake Slip Sublease.

In addition, fines levied by the Association pursuant to Section 4.3 shall constitute Specific Assessments.

8.6 Lien for Assessments. Any assessments or other charges which are not paid when due shall be delinquent. Delinquent assessments shall bear interest from the due date at the rate established by the Board of Directors of the Association, or if not set by the Board, at the highest rate allowed by law, together with such late fees as may be set by the Board. The Association may file a lien of record against any Lot where there remains an assessment unpaid for a period of thirty (30) Days or longer. Said lien shall be filed in the Public Records in a manner provided therefor by Section 47F-3-116 of the Act. Such lien shall be superior to all other liens, except (i) liens and encumbrances (specifically including, without limitation, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of lien in the office of the clerk of superior court, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot. The Association may bring an action at law against any Owner personally obligated to pay any assessments, charges, interest or other costs. Costs and reasonable attorneys' fees for the prosecution of any such action shall be added to the amount due. In the event of such action at law and in the further event that such action results in a judgment being entered against the Owner and in favor of the Association, then, and in that event, the Association shall collect on such judgment in such manner and to the extent provided and permitted by the laws of the State of North Carolina.

The Association's lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Chapter 45 of the North Carolina General Statutes. All fees, charges, late charges, fines, and interest are enforceable as assessments.

In any foreclosure action brought under the power of sale provisions, the Association shall be deemed to be the holder and owner of the obligation secured by this Declaration. The registered agent of the Association shall be the trustee for all purposes of the foreclosure proceeding, and the Association shall have the power to appoint a substitute trustee if for any reason the Association desires to replace the trustee, and the substitute trustee shall succeed to all rights, powers and duties thereof. The Association shall request of the trustee to sell the Lot subject to the lien at public action for cash, after having first given such notice and advertising the time and place of such sale in such manner as may then be provided by law for mortgages and deeds of trust, and upon such sale and upon compliance with the law then relating to foreclosure proceedings under power of sale to convey to the purchaser in as full and ample manner as authorized by Chapter 45 of the North Carolina General Statutes. The trustee shall be authorized to retain an attorney to represent such trustee in such proceedings. The proceeds of the sale shall, after the trustee retains its commission, together with any additional attorneys' fees incurred by the trustee, be applied to the costs of the sale, including but not limited to costs of collection, taxes, assessments, costs of recording, service fees, and incidental expenditures, the amount due on any note secured by the Lot, and any advancements made by the Association in the protection of the security.

The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Lot who obtains title or a Long-Term Leasehold

Interest pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 8.9, including such acquirer, its successors and assigns.

8.7 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the date which the Lot is conveyed or leased pursuant to a Long-Term Ground Lease to a Person other than Declarant or a Declarant-Related Entity or the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. Once assessments have commenced upon any Lot, the obligation to pay assessments with respect to such Lot shall not be suspended or terminated unless the Lot is reacquired by Declarant or a Declarant-Related Entity, except for other reasons to suspend or terminate obligations to pay assessments as otherwise provided herein. The first annual General Assessment levied on each Lot shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot and shall be due and payable at closing. The first annual General Assessment levied on each Lot shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot.

8.8 Obligation for Assessments.

(a) Each Owner, by accepting a deed to a Deeded Lot or by accepting assignment of a Long-Term Leasehold Interest pursuant to a Long-Term Ground Lease to a Leasehold Lot or entering into a recorded contract of sale for any Lot, covenants and agrees to pay all assessments levied in accordance with the Governing Documents for each Lot owned or leased pursuant to a Long-Term Ground Lease. All assessments, together with interest (computed from the assessment's due date at a rate of 18% per annum or the maximum rate permitted by law, whichever is less), late charges as determined by Board resolution, and legal costs, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title or assignment of a Long-Term Leasehold Interest to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance or assignment.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay General Assessments and Special Assessments, if any, on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner is exempted from liability for assessments by non-use of Common Area, abandonment of such Owner's Lot, or any other means. The obligation to pay assessments is a separate and independent covenant by each Owner. No reduction or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some required function, or for inconvenience or discomfort arising from making repairs or improvements, or for any other reason.

Pursuant to Section 47F-3-118(b) of the Act, the Association shall, upon written request, furnish to any Owner liable for any type of assessment, or the Owner's authorized agent, a written statement signed by an Association officer setting forth the amount of unpaid assessments and other charges against the Lot. Such statement shall be furnished within the (10) business days after receipt of the request and shall be binding on the Association, the Board, and every Owner. Except in circumstances where the

written request pertains to unpaid assessments or other charges, the Association may require the advance payment of a reasonable processing fee for the issuance of such statement.

8.9 Exempt Property. The following property shall be exempt from payment of General Assessments and Special Assessments:

(a) All Common Area and such portions of the property owned by the Declarant as are included in the Area of Common Responsibility pursuant to Section 5.1;

(b) Any property dedicated or otherwise conveyed to and accepted by any governmental authority or public utility; and

(c) Any property that is owned by a charitable nonprofit corporation or public agency whose primary purposes include the acquisition and preservation of open space for public benefit and held by such agency or organization for such recreational and open space purposes.

8.10 Capitalization of Association. The Association shall levy against each Lot, upon acquisition of record title by the first Owner thereof (other than Developer, Declarant, any Declarant-Related Entity, the Association or a governmental authority), a one-time contribution to the working capital of the Association (a "Working Capital Contribution") in the amount of Two Thousand Five Hundred Dollars (\$2,500.00). A portion of the Working Capital Contribution (currently approximately \$500 as of the date of this Declaration) shall be used by the Association to install the water meter for each Lot. This amount shall be collected and disbursed to the Association at closing of the purchase and sale of the Lot by the aforesaid first Owner. In addition to defraying the costs of the water meter installation, capital contributions may be used by the Association to cover operating expenses and other expenses incurred by the Association pursuant to the Governing Documents. This amount shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of such assessment. Once a Working Capital Contribution has been paid to the Association for a Lot, no additional Working Capital Contribution shall be due or payable upon any further acquisition of record title to such Lot for which a Working Capital Contribution was previously paid to the Association.

8.11 Contributions by Declarant. In accordance with Section 8.2, the Declarant may support the Association by funding operating deficits during the Development and Sale Period. At the sole election of Declarant, Declarant may recoup from the Association all such payments, which amounts may be paid from the operating account of the Association but not from capital reserves. Regardless of whether the Declarant recoups any other deficit amounts, it is not the intention of the Declarant to forfeit refundable reserves or deposits paid by Declarant, nor to pay for deficits created by the nonpayment of assessments by other Owners. It is also not the intention of Declarant to pay for expenses which are otherwise covered in the annual budget of the Association, but which, due to the requirement of an advance payment, create temporary or seasonal deficits. Accordingly, Declarant shall be reimbursed for all amounts paid by Declarant in the funding of deficits caused by the nonpayment of assessments by Owners which, if not sooner paid, shall be paid to Declarant at the time the unpaid assessment is collected. In addition, if not sooner paid, Declarant shall be reimbursed for any refundable deposit upon the Association's receipt of the same.

All deficits shall be collectible by Declarant at any time from excess funds not designated for capital reserves. The Declarant shall have the right to pursue the collection of any unpaid assessments on behalf of the Association, as well as the right to act on behalf of the Association (if necessary) in obtaining refunds of all deposits paid for by Declarant. The Board of Directors, specifically including members of the Board appointed by the Declarant, shall be authorized to execute a promissory note or

notes on behalf of the Association to evidence the repayment obligation of the Association; provided however, the failure to execute such a note shall in no way diminish such obligation.

8.12 Responsibility and Assessment for Damages. Pursuant to Section 47F-3-107 of the Act, the following provisions apply: (a) if an Owner is legally responsible for damage inflicted on any Common Area or Exclusive Common Area, the Association may direct such Owner to repair such damage or the Association may itself cause the repairs to be made and to recover the cost of such repairs and any other damages from the responsible Owner through a Specific Assessment pursuant to Section 8.6 above; and (b) 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 damage. The Association shall also be liable for any losses to the Owner.

When a claim under either instance in the paragraph immediately hereinabove is less than or equal to the jurisdictional amount established for small claims by N.C.G.S.A. Section 7A-210, 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 Area or the Association is responsible for damages to any Lot. If the Board fails to appoint an adjudicatory panel to hear such matters, hearings under this Section 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 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 N.C.G.S.A. Section 7A-210. When the claim under either instance in the paragraph immediately hereinabove exceeds the jurisdictional amount established for small claims by N.C.G.S.A. 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 Act and Section 8.7 of this Declaration. 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.

The Association shall not be liable for maintenance, repair, and all other expenses in connection with any real estate which has not been incorporated into the Properties.

ARTICLE 9: SITE AND USE STANDARDS

9.1 General. No exterior structure, recreational vehicle, or Improvement shall be placed, erected, installed, constructed, or altered upon, or removed from, any Lot or any other portion of the Properties except in compliance with the Governing Documents, including, without limitation, this Article 9 and the Zoning Ordinance, and with the prior written approval of the SRB, unless exempted from the application and approval requirements pursuant to Section 9.3.

This Article shall not apply to the activities of the Declarant nor to Improvements to the Common Area by or on behalf of the Association nor to Improvements to any Private Amenity made by or on behalf of the owner of such Private Amenity. This Article may not be amended during the Development and Sale Period without the Declarant's written consent.

9.2 Site and Use Review. Each Owner, by accepting a deed to a Deeded Lot or by accepting assignment of a Long-Term Leasehold Interest pursuant to a Long-Term Ground Lease to a Leasehold Lot or by accepting any other instrument conveying or assigning any interest in any portion of the Properties acknowledges that, as the developer of the Properties, Declarant has a substantial interest in ensuring that all recreational vehicles and Improvements within the Properties enhance Declarant's

reputation as a community developer and do not impair Declarant's ability to market, sell or lease any portion of the Properties or the Additional Property. Therefore, the Declarant may, on its behalf, establish an SRB to be responsible for administration of the Site and Use Guidelines and review of all applications for construction and modifications under this Article. The reviewing bodies may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. In addition, the reviewing bodies may require deposits while construction is pending on any Lot to ensure completion in accordance with the Zoning Ordinance without damage to the Properties.

(a) Site Review Board. The SRB shall have exclusive jurisdiction over all construction on any portion of the Properties. Until the last to occur of (i) the expiration of the Development and Sale Period, (ii) the date that one hundred percent (100%) of the Properties have been developed and conveyed or leased pursuant to a Long-Term Ground Lease to Owners other than the Declarant or a Declarant-Related Entity or (iii) until the Declarant or any Declarant-Related Entity no longer owns any Lot, the Declarant retains the right to appoint all members of the SRB who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration or surrender of such right, the Board shall appoint the members of the SRB, who shall thereafter serve and may be removed in the Board's discretion.

9.3 Guidelines and Procedures.

(a) Site and Use Guidelines. The Declarant shall prepare the initial Site and Use Guidelines for the Properties in addition to any design standards set forth in the Zoning Ordinance. The Site and Use Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary according to land use and from one (1) portion of the Properties to another depending upon the location, unique characteristics, and intended use. For example, by way of illustration but not limitation, the Site and Use Guidelines may impose stricter requirements on those portions of the Properties adjacent to or visible from any Private Amenity or any pond, river, stream or other body of water. The Site and Use Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the reviewing bodies in considering applications hereunder. The Site and Use Guidelines are not the exclusive basis for decisions of the reviewing bodies and compliance with the Site and Use Guidelines does not guarantee approval of any application.

The SRB shall adopt the Site and Use Guidelines at its initial organizational meeting and thereafter shall have sole and full authority to amend them. There shall be no limitation on the scope of amendments to the Site and Use Guidelines except that no amendment shall require the modification or removal of any structure previously approved once the approved construction or modification has commenced. The SRB is expressly authorized to amend the Site and Use Guidelines to remove requirements previously imposed or otherwise to make the Site and Use Guidelines less restrictive. All structures shall be subject to restrictions in the Zoning Ordinance and on the Plat.

The SRB shall make the Site and Use Guidelines available to Owners who seek to engage in use of the Lots within the Properties.

(b) Procedures. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and Improvements shall be submitted to the SRB for review and approval (or disapproval). In addition, information concerning irrigation systems, drainage, lighting, grading, landscaping and other features of proposed construction shall be submitted as applicable and as required by the Site and Use Guidelines and the Zoning Ordinance. In reviewing each submission,

the reviewing bodies may consider the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other considerations.

Each application to the SRB shall be deemed to contain a representation and warranty by the Owner that use of the plans submitted does not violate any copyright associated with the plans. Neither the submission of the plans to the SRB, nor the distribution and review of the plans by the SRB shall be construed as publication in violation of the designer's copyright, if any. Each Owner submitting plans to the SRB shall hold the members of the SRB, the Association and the Declarant harmless and shall indemnify said parties against any and all damages, liabilities, and expenses incurred in connection with the review process of this Declaration.

In reviewing and acting upon any request for approval, the SRB shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Decisions may be based solely on aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary over time. The SRB shall have the sole and absolute discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and whether proposed Improvements are consistent with Site and Use Guidelines.

In the event that the SRB fails to approve or to disapprove any application within thirty (30) Days after submission of all information and materials reasonably requested, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Site and Use Guidelines unless a variance has been granted in writing by the SRB pursuant to Section 9.4.

Notwithstanding the above, the SRB by resolution may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution. Any Owner may remodel, paint or redecorate the interior of structures on such Owner's Lot without approval. However, modifications to the interior of screened porches, patios, windows, and similar portions of a Lot visible from outside the structures on the Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

(c) Delinquent Assessments and Other Charges. Notwithstanding the provisions of subsection (b) above, any application for the approval of plans and specifications as set forth in this Article shall be deemed to be disapproved unless and until any and all delinquent assessments and other charges permitted by this Declaration have been paid current by the Owner submitting such plans and specifications for approval.

Subsequent to the approval of plans and specifications pursuant to this Article, if the Owner shall become delinquent in the payment of assessments or other charges permitted by this Declaration at any time during the prosecution of the approved work, the Owner shall be deemed to be in violation of such approval and shall be subject to any means of enforcement set forth in Section 9.6 and Section 4.3.

9.4 General Contractor Approval. In order to ensure that appropriate standards of construction are maintained throughout the Properties, any general contractors that an Owner proposes to provide any construction or maintenance activities within the Properties must be approved by the SRB prior to engaging in any activities within the Properties. The SRB may implement an approval process utilizing established criteria and requiring the submission of a written application for approval. Approval of any plans may be withheld until such time as the Owner's contractor has been approved by the SRB.

Approval of a general contractor may be conditioned upon an agreement with the SRB to maintain certain insurance coverages required by the SRB, pay construction deposits to ensure completion of a project without damage to the Properties, and pay fees determined by the SRB, from time to time. Both the criteria and the application form are subject to change in the sole and absolute discretion of the SRB. Approval of contractors may not be construed as a recommendation of contractor by the SRB or the Declarant, nor a guarantee or endorsement of the work of such contractor. The criteria and requirements established by the SRB for approval of contractors are solely for the Declarant's protection and benefit and are not intended to provide the Owner with any form of guarantee with respect to any approved contractor. Owner's selection of a contractor shall be conclusive evidence that the Owner is independently satisfied with any and all concerns Owner may have about the qualifications of such contractor. Furthermore, Owner waives any and all claims and rights that Owner has or may have now or in the future, against the SRB or the Declarant.

9.5 Specific Guidelines and Restrictions. In addition to the foregoing activities requiring prior approval, the following items are strictly regulated, and the SRB shall have the right, in its sole and absolute discretion, to prohibit or restrict these items within the Properties. Each Owner must strictly comply with the terms of this Section unless approval or waiver in writing is obtained from the SRB. The SRB may, but is not required to, adopt additional specific guidelines as part of the Site and Use Guidelines.

(a) Signs. No sign of any kind (including, without limitation political signs) shall be erected by an Owner or Occupant without the prior written consent of the SRB, except (1) such signs as may be required by legal proceedings; (2) not more than one (1) professional security sign of such size deemed reasonable by the SRB in its sole and absolute discretion; and (3) not more than one (1) "For Sale" sign approved by the SRB in its sole and absolute discretion. Unless in compliance with this Section, no signs shall be posted or erected by any Owner or Occupant within any portion of the Properties, including the Common Area, any Lot, any structure located on the Common Area or any Lot (if such sign would be visible from the exterior of such structure as determined in the SRB's sole and absolute discretion) or within any Private Amenity. All signs that are permitted shall be constructed in accordance with the standards set forth in the Governing Documents, including, without limitation, the Zoning Ordinance.

The Declarant and the SRB reserve the right to prohibit signs and to restrict the size, content, color, lettering, design and placement of any approved signs. All signs must be professionally prepared. This provision shall not apply to entry, directional, or other signs installed by the Declarant or its duly authorized agent as may be necessary or convenient for the marketing and development of the Properties.

(b) Tree Removal. No trees that are more than six (6) inches in diameter at a point two (2) feet above the ground shall be removed without the prior written consent of the SRB; provided however, any trees, regardless of their diameter, that are located within ten (10) feet of a drainage area, a sidewalk, a residence, or a driveway, or any diseased or dead trees needing to be removed to promote the growth of other trees or for safety reasons may be removed without the written consent of the SRB. The SRB may adopt or impose requirements for, or condition approval of, tree removal upon the replacement of any tree removed.

(c) Lighting. Exterior lighting visible from the street shall not be permitted except for: (1) approved lighting as originally installed on a Lot; (2) one (1) approved decorative post light; (3) pathway lighting; (4) streetlights in conformity with an established street lighting program for the Properties; (5) seasonal decorative lights during the usual and common season; (6) front house illumination of model homes; or (7) any additional lighting as may be approved by the SRB. All lights

shall be installed or aimed so that they do not present a disabling glare to drivers or pedestrians or create a nuisance by projecting or reflecting objectionable light onto a neighboring property

(d) Accessory Structures. With the approval of the SRB, detached accessory structures may be placed on a Lot to be used for a playhouse, tool shed, doghouse or other approved use. Such accessory structures shall conform in exterior design and quality to the recreational vehicle on the Lot. An accessory structure placed on a Lot shall be located only behind the recreational vehicle as such vehicle fronts on the street abutting such Lot or in a location approved by the SRB. All accessory structures shall be located within side and rear setback lines as may be required by the SRB or by the Zoning Ordinance.

(e) Antennas and Satellite Dishes. No transmission antenna, except for customer-end antennas that receive and transmit fixed wireless signals, may be erected anywhere on the Properties without written approval of the SRB. No direct broadcast satellite ("DBS") antenna or multi-channel multi-point distribution service ("MMDS") larger than one meter (39.37") in diameter shall be placed, allowed, or maintained upon any portion of the Properties, including but limited to any Lot. DBS and MMDS antennas one meter or less in diameter and television broadcast service antennas may be installed only in accordance with Federal Communications Commission ("FCC") rules and any requirements of the SRB and the Association that are consistent with the rules of the FCC, as they may be amended from time to time. Such items shall be installed in the least conspicuous location available on the Lot which permits reception of an acceptable signal. Except as otherwise provided by this subsection, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Properties, whether attached to a structure or otherwise; provided, however, that the Association shall have the right to erect, construct and maintain such devices.

(f) Utility Lines. Overhead utility lines, including lines for cable television, are not permitted except for temporary lines as required during construction and lines installed by or at the request of Declarant.

(g) Standard Mailboxes. If the Declarant decides, at its sole and absolute discretion, to permit mailboxes at The Reserve at Barefoot Landing on Lake James, then such mailboxes shall be erected where the Declarant permits them to be placed, at Declarant's sole and absolute discretion. This location may, but is not promised to be, a location outside of the entrance to the Properties. Mail service is not warranted or guaranteed to be available to the Properties and mail service may only be available by use of a post office box beyond the Properties.

(h) Solar Collecting Panels or Devices. The Declarant recognizes the benefits to be gained by permitting the use of solar energy as an alternative source of electrical power. At the same time, the Declarant desires to promote and preserve the attractive appearance of the Properties and the Improvements thereon, thereby protecting the value generally of the Properties and the various portions thereof. Subject to prior approval of the plans by the SRB, solar collecting panels and other active solar devices may be placed, constructed or maintained upon a Lot so long as such solar collecting panels and devices are placed, constructed and maintained in such location(s) and with such means of screening or concealment as the SRB may deem appropriate to limit, to the extent possible, the visual impact of such solar collecting panels and devices when viewed from any street or from any other property (whether within or outside the Properties).

(i) Flags. No flags or banners of any kind shall be erected, maintained, or displayed by or on behalf of an Owner or Occupant without the prior written consent of the SRB. The Site and Use Guidelines or the SRB, by resolution, may exempt certain flags and banners from the application and

approval requirements of this Article. This provision shall not be construed to prohibit, nor shall the Site and Use Guidelines or the SRB prohibit, the display of the United States flag or the flag of the State of North Carolina of a size no greater than four feet by six feet, which is displayed in accordance with or in a manner consistent with the patriotic customs set forth in 4 U.S.C. §§ 5-10, as amended, governing the display and use of the flag of the United States. In addition, the Site and Use Guidelines may establish requirements regarding the time, place, or manner of display of the United States flag consistent with the requirements of applicable law, including but not limited to the Freedom to Display the American Flag Act of 2005, as such law may be amended from time to time.

9.6 Construction Period. After commencement of construction, each Owner shall diligently continue construction to complete such construction in a timely manner. Any construction shall be completed within the time limits established by the SRB at the time the project is approved by the SRB.

9.7 No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.8 Variance. The SRB may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the SRB from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship requiring the issuance of a variance.

9.9 Limitation of Liability. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Properties only, and shall not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and neither the Declarant, the Association, the Board, nor the SRB shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all recreational vehicles are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners. Neither the Declarant, the Association, the Board, the SRB or any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Lot. In all matters, the committees and their members shall be defended and indemnified by the Association as provided in Section 4.6.

9.10 Enforcement. The Declarant, any member of the SRB or the Board, or the representatives of each shall have the right, during reasonable hours and after reasonable notice, to enter upon any Lot to inspect for the purpose of ascertaining whether any structure or Improvement is in violation of this Article. Any structure, Improvement or landscaping placed or made in violation of this Article shall be deemed to be nonconforming. Upon written notice from the SRB or the Board, Owners shall, at their own cost and expense, cure any violation or nonconformance or remove such structure or Improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to cure or remove and restore the property as required, any authorized agent of Declarant, the SRB or the Board shall have the right to enter the property, cure or remove the violation, and restore the property to substantially the same condition as previously existed. Entry for such purposes and in compliance with this Section shall not constitute a trespass. In addition, the Board may enforce the decisions of the Declarant, the SRB by any means of enforcement described in Section 4.3.

All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Lot and collected as a Specific Assessment pursuant to Section 8.5.

Unless otherwise specified in writing by the SRB granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. If, after commencement, any Person fails to diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the By-Laws, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Specific Assessment pursuant to Section 8.5.

Neither the SRB or any member of the thereof nor the Association, the Declarant, or their members, officers or directors shall be held liable to any Person for exercising the rights granted by this Article. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article or the Site and Use Guidelines may be excluded by the SRB from the Properties, subject to the notice and hearing procedures contained in the By-Laws.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the SRB. In addition to the foregoing, all activities upon the Properties shall be subject to the terms of the Zoning Ordinance.

ARTICLE 10: USE RESTRICTIONS

10.1 General. Recreational Vehicles Only. Use of Lot or Recreational Vehicle as Primary Residence Prohibited. No Overnight Stays During Winter Months; Restrictions on Number of Days of Occupancy. This Article sets out certain use restrictions which must be complied with by all Owners and Occupants of any Lot. The Properties shall be used only for recreational vehicle, recreational, and related purposes (which may include, without limitation, sales offices for Declarant designated by Declarant, an information center, offices for any property manager retained by the Association, business offices for the Declarant or the Association and related parking facilities) consistent with this Declaration and any Supplemental Declaration as well as all other Governing Documents, including, without limitation, the Zoning Ordinance. Only one recreational vehicle shall be permitted on the Lot at any time.

Owners of Lots within the Properties shall be prohibited from utilizing the Lot or the recreational vehicle thereon as a primary residence, meaning that the Lot shall not be permitted to be utilized as a legal residence of any Owner for any reason, including, without limitation, for income tax purposes, as a primary residence for purposes of mortgage financing, for voter registration, for motor vehicle registration or for any other purpose, as each Owner or Occupant shall be required to have a primary residence at an address other than the Lot within the Properties. Each Owner shall be required to inform the Association of its primary residence at all times for purposes both of verification of compliance with this Section and for routine mailing and transmissions of other communications from the Association to each Owner. **The Lots and any recreational vehicles thereon shall not be permitted to be utilized for overnight stays from January 1 until and including the last day of February (February 28 or February 29 for a "leap year") annually (the "Winter Period") except with the express written permission of the Association, which may be given or withheld at the Association's sole and absolute discretion.** Owners shall be permitted to access Lots and any recreational vehicle situated thereon during daylight hours during the Winter Period as necessary to monitor, inspect, and maintain the Lot and the recreational vehicle thereon, provided that the roads to the Lot are passable. The Association shall not conduct snow removal activities at any time.

While the Lots within the Properties are being served by a transient non-community water system, Owners shall not be permitted to occupy the Lot or utilize the transient non-community water system for more than one hundred eighty (180) cumulative days per person per calendar year.

10.2 Rules and Regulations. In addition to the use restrictions set forth in this Article, the Board may, from time to time, without consent of the Members, promulgate, modify, or delete rules and regulations applicable to the Properties. Such rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting by Members holding a Majority of the total Class "A" votes in the Association, and, during the Development and Sale Period, the written consent of the Declarant.

10.3 Occupants Bound. All provisions of the Declaration, By-Laws, and of any rules and regulations, use restrictions or Site and Use Guidelines governing the conduct of Owners and establishing sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned.

10.4 Short-Term Leasing. Lots (whether they be Deeded Lots or Leasehold Lots) may be short-term leased for use by Occupants of recreational vehicles only. All short-term leases shall contain a restriction prohibiting occupancy from exceeding one recreational vehicle on the Lot both for use by Owners or by overnight guests. All short-term leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Governing Documents, including, without limitation, the Zoning Ordinance. The short-term lease shall also obligate the tenant to comply with the foregoing. The Board may require notice of any short-term lease together with such additional information as deemed necessary by the Board. The Board may establish additional rules and regulations with respect to short-term leasing and short-term lease provisions. Notwithstanding anything to the contrary contained herein, all short-term leases of Lake Slip Lots (all of which are also Leasehold Lots but noting that all Leasehold Lots are not necessarily Lake Slip Lots as some Leasehold Lots are not Lake Slip Lots) shall be for a minimum term of fifteen (15) days. Further notwithstanding the foregoing, nothing in this Section 10.4 shall prohibit or in any way affect the long-term ground leasing of the Leasehold Lots as described in Section 1.27 and the other provisions of this Declaration.

10.5 Recreational Vehicle Use. Lots may be used only for recreational vehicle purposes and for ancillary uses as permitted by the Zoning Ordinance. The maximum occupancy, on either a temporary or permanent basis, shall not exceed one (1) recreational vehicle per Lot.

No other business, trade, or similar activity shall be conducted upon a Lot without the prior written consent of the Board. The terms "business" and "trade," as used in this provision, shall be construed to have their 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 to or does generate a profit, or (c) a license is required.

The leasing of a Lot shall not be considered a business or trade within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant or a contractor approved by the Declarant with respect to its development and sale of the Properties or its use of any Lots which it owns within the Properties.

10.6 Occupancy without Recreational Vehicles. No Lot shall be occupied in any manner other than for a recreational vehicle. The pitching of tents on Lots that do not contain a recreational vehicle shall be prohibited, and pitching of tents otherwise shall be regulated by the terms of this Declaration and the Governing Documents.

10.7 Parking. Vehicles in addition to the one approved recreational vehicle shall be parked only on the Lots and nowhere else within the Properties except in appropriate spaces or areas designated by the Board, provided, however, that notwithstanding the foregoing, no more than two vehicles in addition to the one approved recreational vehicle shall be permitted to be parked on any Lot without the prior written consent of the Association, in the Association's sole and absolute discretion, in each instance. Vehicles shall be subject to such reasonable rules and regulations as the Board may adopt, including, without limitation, restrictions limiting or prohibiting overnight parking by non-Occupants. The Declarant and/or the Association may designate certain parking areas for visitors or guests. Service, delivery and commercial vehicles may be parked in the Properties during daylight hours for such periods of time as are reasonably necessary to provide service or to make a delivery to a Lot or the Common Area. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with the Governing Documents.

10.8 Streets. All Owners and Occupants acknowledge and agree that the use of all public streets and any Private Streets within The Reserve at Barefoot Landing on Lake James shall be subject to the provisions of this Declaration regarding use of Common Area. Specifically, Owners, Occupants and other permitted users of the public streets and any Private Streets shall be obligated to refrain from any actions which would deter from or interfere with the use and enjoyment of the public streets and/or any Private Streets by other authorized users of the streets. Prohibited activities shall include without limitation, violation of parking rules and obstruction of any of the public streets or Private Streets.

10.9 Use of Common Area. There shall be no obstruction of the Common Area, nor shall anything be kept, parked or stored on any part of the Common Area without the prior written consent of the Association. With the prior written approval of the Board of Directors, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Area for use for a period of time as set by the Board. Any such Owner or Owners who reserve a portion of the Common Area as provided herein shall assume, on behalf of himself/herself/themselves and his/her/their guests, Occupants and family, all risks associated with the use of the Common Area and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees.

10.10 Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board. No animals shall be kept, bred or maintained for commercial purposes without prior written Board approval. All permitted pets shall be reasonably controlled by the owner whenever outside an approved recreational vehicle and shall be kept in such a manner as to not become a nuisance by barking or other acts. The owners of the pet shall be responsible for all of the pet's actions. If, in the sole opinion of the Board, any animal becomes dangerous or an annoyance or nuisance in the Properties or to nearby property or destructive of wildlife, such animal shall be removed from the Properties. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights provided in Section 4.3. This provision shall not be construed to interfere with any provision under the Americans with Disabilities Act or any similar applicable federal, state or local law, ordinance or regulation. Service animals in active use shall be permitted on the Properties.

10.11 Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's property. No property within the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might, in the sole and absolute discretion of the Board, disturb the peace, quiet, safety, comfort, or serenity of the Occupants of surrounding property.

No noxious or offensive activity shall be conducted within the Properties, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes or as approved by the SRB, shall be located, installed or maintained upon the exterior of any Lot unless required by law. Any siren or device for security purposes shall contain a device or system which causes it to shut off automatically.

The reasonable and normal development, construction and sales activities conducted or permitted by the Declarant shall not be considered a nuisance or a disturbance of the quiet enjoyment of any Owner or Occupant.

10.12 Storage of Materials, Garbage, and Dumping. All garbage cans shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. There shall be no dumping of grass clippings, leaves or other debris; rubbish, trash or garbage; petroleum products, fertilizers, or other potentially hazardous or toxic substances in any pond, drainage ditch or stream within the Properties or on any Common Area, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff.

Each Owner shall maintain its Lot in a neat and orderly condition and not allow trash or debris from its activities to be carried by the wind or otherwise scattered within the Properties. Storage of construction materials on the Lot shall be subject to such conditions, rules, and regulations as may be set forth in the Site and Use Guidelines and the Zoning Ordinance. Each Owner shall keep roadways, shared driveways, easements, swales, and other portions of the Properties clear of silt, construction materials and trash from its activities at all times. Trash and debris shall be contained in standard size dumpsters or other appropriate receptacles and removed regularly from Lots and shall not be buried or covered on the Lot. Any Lot on which construction is in progress may be policed prior to each weekend, and during the weekend all materials shall be neatly stacked or placed and any trash or waste materials shall be removed. In addition, Owners shall remove trash and debris from the Lot upon reasonable notice by Declarant in preparation for special events.

10.13 Combustible Liquid. There shall be no storage of gasoline, kerosene, propane, heating or other fuels, except for a reasonable amount of fuel that may be stored in containers appropriate for such purpose on each Lot for emergency purposes and operation of lawn mowers, grills, and similar tools or equipment and except as may be approved in writing by the SRB. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

10.14 Guns. The discharge of firearms on the Properties is prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns, and firearms of all types. The Board may impose

finer and exercise other enforcement remedies as set forth in this Declaration, but shall have no obligation to exercise self-help to prevent or stop any such discharge.

10.15 Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed after a subdivision Plat including such Lot has been approved and filed in the Public Records without the Declarant's prior written consent during the Development and Sale Period, and the prior written consent of the SRB thereafter. In addition, no home shall be subdivided or partitioned to create housing for more than a single family, except as set forth in Section 10.5. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots which it owns. Any such division, boundary line change, or replatting shall not be in violation of the Zoning Ordinance.

10.16 Sight Distance at Intersections. All property located at street intersections or driveways shall be landscaped, improved and maintained so as to permit safe sight across such areas. No fence, wall, hedge or shrub shall be placed or permitted to remain where it would cause a traffic or sight problem.

10.17 Drainage and Grading.

(a) Catch basins and drainage areas are for the purpose of natural flow of water only. No Improvements, obstructions or debris shall be placed in these areas. No Owner or Occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains.

(b) Each Owner shall be responsible for maintaining all drainage areas located on its Lot. Required maintenance shall include, but not be limited to, maintaining ground cover in drainage areas and removing any accumulated debris from catch basins and drainage areas.

(c) Each Owner shall be responsible for controlling the natural and man-made water flow from its Lot. No Owner shall be entitled to overburden the drainage areas or drainage system within any portion of the Properties or any Private Amenities with excessive water flow from its Lot. Owners shall be responsible for all remedial acts necessary to cure any unreasonable drainage flows from Lots. Neither the Association nor the Declarant bears any responsibility for remedial actions to any Lot.

(d) Use of any areas designated as "drainage easement areas" on any recorded subdivision Plat of the Properties, shall be subject to strict prohibitions against encroachment of structures into, over or across the drainage easement areas, and the right of the Declarant to enter upon and maintain the drainage easement areas. Such maintenance activities may include disturbance of landscaping pursuant to the terms contained in any declaration of easements, notwithstanding approval of the landscaping as set forth in Article 9.

(e) No Person shall alter the grading of any Lot without prior approval pursuant to Article 9 of this Declaration. The Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. The exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent.

(f) All Persons shall comply with any and all applicable erosion control ordinances and regulations in construction of Improvements on any Lot and in conducting any activity within non-disturbance buffer zones.

10.18 Irrigation. Owners shall not install irrigation systems which draw upon ground or surface waters nor any ponds, or other body of water within the Properties. However, the Declarant and the Association shall have the right to draw water from such sources for the purpose of irrigating the Area of Common Responsibility to the extent all necessary permissions have been obtained in writing. Additionally, the Declarant and the Association shall have the right to regulate any and all irrigation of water at any time including, without limitation, during times of high demand of any of the water or other utility systems serving the Properties.

10.19 Streams. No streams which run across any Lot may be dammed, or the water therefrom impounded, diverted, or used for any purpose without the prior written consent of the Board, except that the Declarant shall have such rights as provided in Article 11.

10.20 Wetlands. All areas designated on a recorded Plat as "wetlands" shall be generally left in a natural state, and any proposed alteration of the wetlands must be in accordance with any restrictions or covenants recorded against such property and be approved by all appropriate regulatory bodies. Prior to any alteration of a Lot, the Owner shall determine if any portion thereof meets the requirements for designation as a regulatory wetland. Notwithstanding anything contained in this Section, the Declarant, the Association, and the successors, assigns, affiliates and designees of each may conduct such activities as have been or may be permitted by the U.S. Army Corps of Engineers or any successor thereof responsible for the regulation of wetlands.

10.21 Conservation Area. All portions of the Properties designated as an "undisturbed buffer area" or conservation easements on a record Plat shall be known as "conservation areas" and shall be left in their natural state and fully non-disturbed, including no limbing up of trees, no minor vegetation removal, and no use of herbicides. Additionally, no trails, paths, and/or incidental impacts will be completed within the conservation areas.

10.22 Mobile Vending. Selling, or offering for sale, or operating any motor vehicle, pushcart, catering or food truck for sale of, or conducting any business for the purpose of causing the sale of, goods, merchandise and/or food from any motor vehicle, pushcart, or catering or food truck parked, stopped, or standing upon any portion of the Properties or any dedicated roadways or other public property within The Reserve at Barefoot Landing on Lake James shall require the prior approval of the Board. Such approval shall be granted or withheld in the sole and absolute discretion of the Board. Prior to any approval, the Board may require submittal of information, the issuance of permits, the payment of fees, and compliance with any rules and operational guidelines adopted by the Board. The approval of the Board shall not supersede any requirement for approval by or permit from any governmental authority and shall not serve as a representation or warranty by the Association that such approvals and permits may be obtained from such governmental authority.

10.23 Public Protests. Picketing, protest marches, sit-in demonstrations, protest speeches, and other forms of public protest or conduct, including, without limitation, displaying signs or placards on a Lot or any vehicle, apparatus or otherwise within public view in the Properties, which tends to vilify, ridicule, denigrate, or impugn the character of Declarant, a Declarant-Related Entity, the Association, their respective officers, directors or employees, or any Owner or Occupant shall be prohibited. Each Owner, by acceptance of the deed to any Deeded Lot or by accepting assignment of a Long-Term Leasehold Interest pursuant to a Long-Term Ground Lease to a Leasehold Lot, shall be deemed to have accepted the foregoing prohibitions as reasonable limitations on such Owner's constitutional right of free speech.

10.24 Site Plan Approval. The Declarant shall have the right to review and approve any subdivision of any portion of the Properties, including the right to approve all preliminary or final site

plans and subdivision Plats, Lot lay-outs and street locations. The Declarant shall also have the right to approve the size, density and configuration of any subdivided parcels within the Properties.

10.25 Private Amenities. Owners, Occupants and their pets shall refrain from any actions which would distract from the use of the Private Amenity. Such prohibited activities shall include, but shall not be limited to, burning materials where the smoke will cross a Private Amenity, maintenance of dogs or other pets which interfere with use of Private Amenities due to their loud barking or other actions, or playing of loud radios, televisions, stereos or musical instruments, running, bicycling, skateboarding, walking or trespassing in any way on a Private Amenity.

10.26 Timesharing. No Lot shall be made subject to or be operated as a timesharing, fraction sharing, fractional ownership, or similar program whereby the right to exclusive use of the Lot rotates among participants in a program on a fixed or floating time schedule over a period of years, except upon the prior written control of Declarant, which may be given or withheld at Declarant's sole and absolute discretion.

10.27 Real Estate Sales Offices. During the Development and Sale Period, any real estate brokerage firm designated by Declarant in its sole and absolute discretion shall have the exclusive rights to maintain an office for the sale, rental or management of real estate within the Properties. No part of the Properties may be used as an office for any form of business involving real estate and/or real property, including but not limited to sales, rental, management, development or appraisal of property without the prior written consent of Declarant, which written consent may be withheld in the sole and absolute discretion of Declarant. This provision shall inure to the benefit of the designated brokerage firm and shall not be amended by the Association or its Members without the prior written consent of Declarant which may be given or withheld in Declarant's sole and absolute discretion.

10.28 Unmanned Aircraft Systems. Subject to the rights set forth in Section 11.14, the Board reserves the right to approve, disapprove or prohibit the use of unmanned aircraft systems ("UAS"), including drones, within the Properties on a temporary or permanent basis and may adopt rules, regulations and prohibitions regarding the time, place and manner of the use of such vehicles.

ARTICLE 11: EASEMENTS

Declarant reserves, creates, establishes, promulgates, and declares the non-exclusive, perpetual easements set forth herein for the enjoyment of the Declarant, the Association, the Members, the Owners, and the owners of any Private Amenities, and their successors-in-title.

11.1 Easements of Encroachment; Specific Encroachments of Barefoot Landing Partners, LLC; Easement for Lake Access to Barefoot Landing Partners, LLC.

(a) Easements of Encroachment. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between adjacent Lots, between each Lot and any adjacent Common Area, between Common Area and any adjacent Private Amenity, and between each Lot and any adjacent Private Amenity due to the unintentional placement or settling or shifting of the Improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

(b) Specific Encroachments of Barefoot Landing Partners, LLC. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements of encroachment, and for maintenance and use by Barefoot Landing Partners, LLC, ("BLP") of the following encroachments shown on the Plat as protruding from the adjacent property of BLP: camper shed corner; propane tank; retaining wall; propane tank; guywire; retail lines; edge of gravel; 18" CMP; camper roof shelter; steps; fire pit; gravel area; exposed sewer line; camper roof shelter; septic PVC elbow; camper roof shelter; steps; fire pit; camper roof shelter area; vinyl cabinet; camper roof shelters; steps; camper roof shelters; steps; camper roof shelter; water spigots; vinyl building; electric meter; camper roof shelters; satellite dish; deck; fire pit; decks; ½" pipe east of property line; gravel parking area; concrete boat ramp (collectively, the "Specific Encroachments"). Declarant expressly acknowledges, permits and consents to the Specific Encroachments and grants, consents, and permits a non-exclusive, perpetual easement for the benefit of BLP to maintain the Specific Encroachments, subject to the terms and conditions of this Declaration. BLP acknowledges and agrees that in no way whatsoever is BLP occupying the area where the Specific Encroachments are situated adversely to Declarant's interests or out of any claim of right to use the area where the Specific Encroachments are situated. The easement in this paragraph only applies to those Specific Encroachments as shown on the Plat recorded on February 27, 2024, and not to any additional encroachments that may appear on any updates to plats or to any other encroachment whatsoever. The easements granted by this paragraph easement are strictly related to the Specific Encroachments as they exist as of the date of the Plat and not to any expansion or alteration of the Specific Encroachments, as no such expansion, addition, or alteration of the Specific Encroachments or the installation of any additional landscaping or hardscaping or any other improvement of any kind or nature that is encroaching on the Properties shall be permitted without the prior written consent of Declarant, which written consent may be given or withheld at Declarant's sole and absolute discretion. In the event that all or a portion of the Specific Encroachments are partially or totally removed, then the easement rights granted herein shall promptly terminate and be of no further force and effect as to that particular portion of the Specific Encroachments removed. BLP shall have the right to rebuild in a prompt manner (by no later than twelve (12) months after date of casualty) any of the Specific Encroachments that are damaged or destroyed by casualty provided that no such restoration shall in any way result in any expansion of the area where the Specific Encroachments were located as of the date of the casualty.

The rights granted to BLP by this Declaration are limited to use of the Specific Encroachments for their intended purposes and for no other purpose whatsoever. The easement and rights granted herein shall not include the right by BLP to store any personal property or recreational equipment of any kind other than those specific items listed as Specific Encroachments. No further rights whatsoever are granted to BLP to use or occupy the Properties or any part thereof except as specifically provided for in this paragraph. BLP shall be responsible to maintain commercial general liability and property insurance with respect to all Specific Encroachments in reasonable levels, with Declarant and the Association to be additional insureds as to the aforesaid insurance. BLP shall at all times remain responsible for injuries, demands, damages to persons or property, losses or judgment arising from its use of the Specific Encroachments and BLP's (or BLP's designees, licensees, invitees, tenants, occupants, or agents) acts and omissions thereon by BLP and its employees, suppliers, officers, agents and subcontractors, and BLP shall indemnify, defend and hold harmless Declarant and the Association from and against any and all claims, demands, costs and expenses (including reasonable attorneys' fees), losses, suits, damages and liabilities which may be imposed upon or incurred by or asserted by any such indemnified persons by reason of any use of or access to the area where the Specific Encroachments are located. This indemnity shall survive any termination of this Declaration. BLP joins this Declaration to acknowledge its agreement to the terms of this paragraph. BLP joins this Declaration to acknowledge its agreement to the terms of this paragraph.

(c) Easement for Lake Access to Barefoot Landing Partners, LLC. Declarant reserves, creates, establishes, promulgates and declares a non-exclusive, perpetual, appurtenant easement of access for BLP in the easement area shown on Exhibit "C" that is an excerpt of the Plat.

11.2 Easements for Utilities, Etc.

(a) Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements, for itself during the Development and Sale Period, for the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties (but not through a structure, existing or proposed) to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing cable, digital or similar television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, shared driveways, walkways, pathways and trails; ponds, wetlands, irrigation, and drainage systems; street lights and signage; and all utilities, including, but not limited to, water, septic, sewer, telephone, gas, and electricity systems, lines and meters; and an easement for access of vehicular and pedestrian traffic over, across, and through the Properties, as necessary, to exercise the easements described above.

Declarant may assign to the local water supplier, sewer service provider, electric company, telephone company, natural gas supplier, internet service provider, cable television/satellite service provider or any utility sub-metering company, the easements set forth herein across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(b) Declarant reserves, creates, establishes, promulgates and declares for itself during the Development and Sale Period and its designees non-exclusive, perpetual, reciprocal, appurtenant easements, and the non-exclusive right and power to grant such specific easements as may be necessary, in the sole and absolute discretion of Declarant, in connection with the orderly development of any property described on Exhibits "A" or "B."

(c) Any damage to a Lot resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. Nothing contained herein shall obligate the Declarant, the Association or the Board to pursue legal recourse against any Person damaging a Lot or any portion thereof as a result of the exercise of this easement. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot, and except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or Occupant.

(d) Declarant reserves unto itself the right, in the exercise of its sole and absolute discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (i) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

11.3 Easement for Slope Control, Drainage and Waterway Maintenance. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements, for itself, the owner of any Private Amenity and the Association, and their respective representatives, successors and assigns, contractors and agents, over, across, under, through and upon each Lot for the purposes of:

(a) controlling soil erosion, including grading and planting with vegetation any areas of any Lot which are or may be subject to soil erosion;

(b) drainage of natural or man-made water flow and water areas from any portion of the Properties or any Private Amenity;

(c) changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Lot or Common Area;

(d) dredging, enlarging, reducing or maintaining any water areas or waterways within the Properties; and

(e) installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of the Properties or any Private Amenity.

11.4 Easements to Serve Additional Property. The Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for itself and its duly authorized successors and assigns, including without limitation, the owners of Private Amenities, successors-in-title, agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Additional Property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right by Declarant to grant additional easements for the Boat Slips or for any other future development and a right of ingress and egress over the Common Area for construction of roads, for the posting of signs, and for connecting and installing utilities serving the Additional Property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of the Additional Property.

11.5 Easement for Entry. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for the Association to enter upon any Lot for emergency, security, and safety reasons. Such right may be exercised by any member of the Board, the Association's officers, committee members, agents, employees and managers of the Association, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to the Owner. This easement includes the right to enter any Lot to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any recreational vehicle without permission of the Owner, except by emergency personnel acting in their official capacities. Entry under this Section shall not constitute a trespass.

11.6 Easements for Maintenance and Enforcement.

(a) Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant rights and easements for the Association to enter all portions of the Properties, including each Lot but excluding the interior of any recreational vehicle, to (i) perform its maintenance responsibilities under Section 5.1, and (ii) make inspections to ensure compliance with the Governing Documents. Except in emergencies, entry onto a Lot shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment of Owners' property, and any damage shall be repaired by the Association at its expense.

(b) The Association may also enter a Lot, excluding the interior of any recreational vehicle, to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Governing Documents. All costs incurred, including reasonable attorneys' fees, may be assessed against the violator as a Specific Assessment.

(c) Entry under this Section shall not constitute a trespass, and prior notice to the Owner shall not be required except as provided in Section 5.2.

11.7 Easement for Walking Trail Access. Declarant hereby reserves, creates, establishes, promulgates and declares perpetual, non-exclusive easements for itself, its successors, assigns and designees, the Association and the Owners, over and across any areas designated as "walking trails", or "paths" on any recorded subdivision Plat of the Properties regardless of whether such trails or paths are located on Lots or Common Area. Use of such walking trails or paths shall be governed by reasonable rules and regulations promulgated by the Association and those rights set forth in Section 2.1.

11.8 Lateral Support. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements over every portion of the Common Area, every Lot, and any Improvement which contributes to the lateral support of another portion of the Common Area, of another Lot, or of a Private Amenity for lateral support, and each shall also have the right to lateral support which shall be appurtenant to and pass with title or of assignment of a Long-Term Leasehold Interest to such property.

11.9 Easement for Special Events. Declarant reserves, creates, establishes, promulgates and declares for itself, its successors, assigns and designees a perpetual, non-exclusive appurtenant easement over the Common Area for the purpose of conducting or allowing its designees to conduct educational, cultural, entertainment, promotional or sporting events, and other activities of general community interest at such locations and times as Declarant, in its sole and absolute discretion, deems appropriate. Each Owner, by accepting a deed to a Deeded Lot or by accepting assignment of a Long-Term Leasehold Interest pursuant to a Long-Term Ground Lease to a Leasehold Lot or by accepting any other instrument conveying or assigning any interest in a Lot, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the Occupants of its Lot to take no action, legal or otherwise, which would interfere with the exercise of such easement or to recover damages for or as the result of any such activities.

11.10 Rights to Stormwater Runoff, Effluent and Water Reclamation. Declarant hereby reserves for itself and its designees, including but not limited to the owner of any Private Amenity, all rights to ground water, surface water, storm water runoff, and effluent located or produced within the Properties, and each Owner agrees, by acceptance of a deed to a Deeded Lot or by accepting assignment of a Long-Term Leasehold Interest pursuant to a Long-Term Ground Lease to a Leasehold Lot, that Declarant shall retain all such rights. Such right shall include an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff and effluent.

11.11 Easement for Greenbelt Maintenance.

(a) Declarant reserves for itself and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon greenbelts, buffer zones and nondisturbance areas located within The Reserve at Barefoot Landing on Lake James to remove trash and other debris therefrom and fulfill maintenance responsibilities as provided in this Declaration. The Declarant's rights and easements provided in this Section shall be automatically transferred to the

Association at the expiration of the Development and Sale Period or such earlier time as Declarant may elect, in its sole and absolute discretion, to transfer such rights by a written instrument. The Declarant, the Association, and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of greenbelt, buffer zone or nondisturbance area to the extent reasonably necessary to exercise their rights under this Section.

(b) Encroachment of structures into, over, or across greenbelts, buffer zones and nondisturbance areas shown on any recorded subdivision Plat of the Properties is strictly prohibited. Landscaping in these areas is subject to removal in the reasonable discretion of Declarant in the ordinary course of maintenance of these areas. Any landscaping permitted shall be installed in conformance with Article 9 herein. All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements.

(c) Declarant reserves unto itself the right, in the exercise of its sole and absolute discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (i) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

11.12 Liability for Use of Easements. No Owner shall have a claim or cause of action against the Declarant, the Association, their successors or assigns, including without limitation the owner(s) of any Private Amenities, arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision Plat for the Properties, except in cases of willful or wanton misconduct.

11.13 Easements Reserved on Plats. Plats of all or any portion of the Properties recorded by, or with the approval of, the Declarant may contain and reflect the locations of specific utility, drainage, ingress and egress, non-access and other easements ("Platted Easements"). With respect to any Platted Easement, Declarant hereby reserves for itself, its successors, assigns and designees, as well as the Association, and any of its designees, such easement for the purpose of exercising any right or performing any obligation thereto. The Declarant shall have the unrestricted right, without the approval or joinder of any other Person, to designate the use and to alienate, release, or otherwise assign any Platted Easement, unless such easement has been previously conveyed or dedicated. Such Platted Easements may include, without limitation, easements to construct, maintain, and operate water mains, drainage ditches, sewer lines, and other suitable installations for drainage and sewage disposal as well as easements to install, maintain, transmit, and use electricity, gas, telephone, telecommunications, cable systems, and other utilities, whether or not such easements are shown on the Plat to be for drainage, utilities, or any other purposes. The Owner of any Lot subject to a Platted Easement shall acquire no right, title, or interest in any of the cables, conduits, pipes, mains, lines, or other equipment or facilities placed on, over, or under any such Platted Easement area. The Owner of a Lot subject to any Platted Easement shall not construct any Improvements on such Platted Easement areas, nor alter the flow of drainage, nor landscape such areas with hedges, trees, or other landscape items that might interfere with the exercise of such Platted Easement rights. If any Owner constructs any Improvements or installs any landscaping on any Platted Easement area, the Owner of the Lot shall remove, at the Owner's expense, the Improvements or landscape items upon written request of Declarant, the Association, or the grantee of such Platted Easement. If the Owner fails to promptly remove any Improvements or landscaping located within the Platted Easement area, the Declarant, the Association, or the grantee of the Platted Easement may enter the Lot and remove such Improvements or landscaping at the expense of the Owner, who shall reimburse the cost of removal within fifteen (15) days of demand. The party removing the Improvements or landscaping shall not be responsible for any damage caused by the removal and shall not be required to restore any portion of the Lot damaged by the removal. Declarant reserves unto itself the right to designate additional buffers as Declarant deems appropriate or as required by applicable regulations.

Declarant hereby reserves the 10-foot sewer easement over certain Lots and the 250-foot Lake Protection Zone, as shown on the Plats.

11.14 Easement for Avigation. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements, for itself and any Declarant-Related Entity, a perpetual non-exclusive easement upon, across, and over, all of the Properties (but not through a structure) to the extent reasonably necessary for the purpose of operating UAS as part of a business in and through the airspace at any height and altitude above that the Properties to the extent such operation of UAS as part of a business is permitted under federal and state law (the "Avigation Easement Area"). The foregoing easement includes the right of UAS to cause noise, vibrations, fumes, deposits of dust, fuel particles (incidental to the normal operation of UAS), fear, interference with sleep or communication and any other effects associated with the normal operation of UAS taking off, landing or operating within and in the vicinity of the Properties. The easement granted herein includes on behalf of the Declarant, any Declarant-Related Entity and its successors and assigns a perpetual right of ingress and egress in and to the Avigation Easement Area and the right to remove any new structure or vegetation or other improvement within the Common Areas that interferes with the use of the Avigation Easement Area.

ARTICLE 12: MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

12.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- (b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) Days, or any other violation of the Declaration or By-Laws relating to such Lot or the Owner or Occupant which is not cured within sixty (60) Days;
- (c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
- (d) Any proposed action which would require the written consent of a specified percentage of Eligible Holders pursuant to Federal Home Loan Mortgage Corporation requirements.

12.2 No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

12.3 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

12.4 Failure of Mortgagee to Respond. Any Mortgagee who receives 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 Mortgagee within thirty (30) Days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

12.5 Construction of Article 12. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or North Carolina law for any of the acts set out in this Article.

ARTICLE 13: DECLARANT'S RIGHTS

13.1 Transfer or Assignment. Any or all of the special rights and obligations of the Declarant set forth in the Governing Documents may be transferred or assigned in whole or in part to the Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. Upon any such transfer, the Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

13.2 Development and Sales. The Declarant, Declarant-Related Entities contractors authorized by Declarant may maintain and carry on the Properties such activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Lots, such as sales activities, tournaments, charitable events, and promotional events, and restrict Members from using the Common Area during such activities. Such activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Members' use and enjoyment of the Common Area. In the event that any such activity necessitates exclusion of Owners from Common Areas, such activities shall not exceed seven (7) consecutive Days. The Declarant, Declarant-Related Entities and authorized contractors shall have easements over the Properties for access, ingress and conducting such activities.

In addition, the Declarant, Declarant-Related Entities and contractors authorized by Declarant may establish within the Properties, including any clubhouse, such facilities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Lots, including, but not limited to, business offices, signs, model units, tents, sales offices, sales centers and related parking facilities. During the Development and Sale Period, Owners may be excluded from use of all or a portion of such facilities in the Declarant's sole and absolute discretion. The Declarant, Declarant-Related Entities and authorized contractors shall have easements over the Properties for access, ingress, and egress and use of such facilities.

Declarant may permit the use of any facilities situated on the Common Area by Persons other than Owners without the payment of any use fees.

13.3 Improvements to Common Areas. The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such Improvements to the Common Area as it deems appropriate in its sole and absolute discretion.

13.4 Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, declaration of condominium, easements, or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such

written consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records. No such instrument recorded by any Person, other than the Declarant pursuant to Section 7.4, may conflict with the Declaration, By-Laws or Articles.

13.5 Right of the Declarant to Disapprove Actions. Until two (2) years following the termination of the Class "B" membership, the Declarant shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Declarant, would tend to impair rights of the Declarant, any Declarant-Related Entity, or contractors under the Governing Documents, or interfere with development of, construction on, or marketing of any portion of the Properties, or diminish the level of services being provided by the Association. This right to disapprove is in addition to, and not in lieu of, any right to approve or disapprove specific actions of the Association, the Board or any committee as may be granted to the Declarant in the Governing Documents:

(a) The Declarant shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Declarant has registered with the secretary of the Association, which notice complies with the By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting. The Declarant may waive its right to receive notice in the same manner as provided in the By-Laws.

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee.

(c) No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met and the time period set forth in subsection (d) below has expired.

(d) The Declarant, acting through any authorized representative, may exercise its right to disapprove at any time within ten (10) Days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) Days following receipt of written notice of the proposed action. No action, policy or program shall be effective or implemented if the Declarant exercises its right to disapprove. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

13.6 Amendments. Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any use restrictions and rules or Site and Use Guidelines shall be effective without prior notice to and the written consent of the Declarant, during the Development and Sale Period. This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) twenty (20) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

13.7 Inspection of Common Areas. Declarant hereby reserves the right, in addition to other rights and remedies, at all times after conveyance of the Common Area to the Association, to exercise all rights and easements reserved hereby, including but not limited to, the right to create easements over the Common Area pursuant to Article 11 and to enter the Common Area, without prior notice, and to inspect the condition thereof and the Improvements and facilities thereon, if any. If Declarant determines, in its sole and absolute discretion, that the Association has failed to maintain any portion of the Common Area in a manner consistent with the Community-Wide Standard, it may so notify the Association, in writing, and the Association shall promptly perform the required maintenance or repairs. Failure of the Association to maintain the Common Area in a manner consistent with the Community-Wide Standard shall relieve Declarant and any predecessor Declarant of any liability to the Association or to any Member for any condition of the Common Area. Declarant shall have the right to make a record of its inspections by any means available, including, but not limited to, photographing, filming, and/or videotaping the Common Area, and shall have the right to perform tests or examinations to determine the condition of the Common Area. Notwithstanding the foregoing, Declarant shall have no obligation to perform inspections of the Common Area owned by the Association, and the Association shall not be relieved of its obligation to maintain the Common Area because of the election of Declarant or any predecessor Declarant to inspect or not to inspect or report to the Association the condition of the Common Area.

13.8 Right to Notice or Design of Construction Claims. No Person, including the Association, shall retain an expert for the purpose of inspecting the design or construction of any Improvements within the Common Areas in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant has been first notified in writing and given an opportunity to meet with the Person and conduct an inspection.

13.9 Liability for Association Operations. The Association shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Declarant and any predecessor Declarant (including, without limitation, their respective Declarant-Related Entities, successors, and assigns) from and against any and all losses, claims, demands, damages, costs, and expenses of whatever kind or nature (including, without limitation, legal costs), which relate to or arise out of Association management and operations, including, without limitation, improvement, maintenance, and operation of amenities and other portions of the Area of Common Responsibility and the collection of assessments.

ARTICLE 14: PRIVATE AMENITIES

14.1 General. Private Amenities shall not be a portion of the Common Area, and neither membership in the Association nor ownership or occupancy of a Lot shall confer any ownership interest in or right to use any Private Amenity. Rights to use the Private Amenities, including any roads, pathways, trails, lodging facilities, or recreational facilities, will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the respective owners of the Private Amenities. The owners of the Private Amenities shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities, including, without limitation, eligibility for and duration of use rights, categories of use, extent of use privileges, and number of users; and to require the payment of a purchase price, membership contribution, initiation fee, membership deposit, dues, use charges and other charges for use privileges; and to change, eliminate or cease operation of any or all of the facilities; and to reserve use rights; and to terminate use rights altogether, subject to the terms of any written agreements.

14.2 Conveyance of Private Amenities. All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by the Declarant, any Declarant-Related Entity, the Association, any contractor, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of any Private Amenity, and no purported representation

or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of the Private Amenity. Further, the ownership or operation of the Private Amenities may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations of any Private Amenity by a Person other than the current owner or operator; (b) the establishment of, or conversion of the membership structure to, an "equity" club or similar arrangement whereby the members of the Private Amenity or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Amenity; or (c) the conveyance of any Private Amenity to one (1) or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association or any Owner shall be required to effectuate any change in ownership or operation of any Private Amenity, for or without consideration and subject to or free of any mortgage, covenant, lien or other encumbrance.

14.3 Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Private Amenities, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefitting any Private Amenity, may be made without the written approval of the owner(s) of the affected Private Amenity. The foregoing shall not apply, however, to amendments made by the Declarant.

ARTICLE 15: GENERAL PROVISIONS

15.1 Duration.

(a) Unless terminated as provided in this Section, this Declaration shall have perpetual duration. If North Carolina law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of twenty (20) years each, unless terminated as provided herein.

(b) Pursuant to §47F-2-118 of the Act the planned community may be terminated by agreement of Lot Owners to which at least eighty percent (80%) of the votes in the Association are allocated. The agreement shall be drafted, executed or ratified, and recorded pursuant to the terms of §47F-2-118 of the Act.

(c) Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

15.2 Amendment.

(a) By Declarant. Until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the U.S. Department of Veterans Affairs, the U.S. Department of Housing and Urban Development, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Lots; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title or ownership of a Long-Term Leasehold Interest to any Lot unless the Owner shall consent in writing. In addition, during the Development and Sale Period, Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect

upon any right of any Owner. The failure of an amendment to apply uniformly to all Lots shall not constitute a material adverse effect upon the rights of any Owner.

(b) By the Board. The Board shall be authorized to amend this Declaration without the consent of the Owners (i) to correct scrivener's errors and other mistakes of fact, (ii) to remove provisions creating impediments to the implementation, use and operation of advancements in technology or products within the Properties; and (iii) for the purposes of bringing any provision contained herein into compliance with the Fair Housing Amendments Act of 1988, as more fully set forth in Section 15.4, provided that amendments under this provision have no material adverse effect on the title or ownership of Long-Term Leasehold Interest to any Lot unless the Owner of such Lot consents. During the Development and Sale Period, any such amendments shall require the written consent of the Declarant.

(c) By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding sixty-seven percent (67%) of the total Class "A" votes in the Association, and, during the Development and Sale Period, the written consent of the Declarant.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Further, amendments to this Declaration that are required by the Act to be recorded by the Association shall be prepared, executed, and certified in accordance with the Act.

(d) Validity and Effective Date. Any amendment to the Declaration shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within one year of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. No amendment may remove, revoke, or modify any right or privilege of the Declarant, any Declarant-Related Entity or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, the Declarant-Related Entity or the assignee of such right or privilege.

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

15.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

15.4 Fair Housing Amendments Act. The provisions of the Governing Documents shall be subordinate to the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, et seq., (hereinafter referred to as "FHAA"), and shall be applied so as to comply with the FHAA. In the event that there is a conflict between or among the Governing Documents and the FHAA, the FHAA shall prevail. Notwithstanding anything to the contrary contained herein, in the event that any provision of this Declaration conflicts with the FHAA, the Board of Directors, without the consent of the Members or of the Declarant, shall have the unilateral right to amend this Declaration for the purpose of bringing this Declaration into compliance with the FHAA. Furthermore, notwithstanding Section 2.3 hereof, the Board shall have the unilateral right to assign portions of the Common Area as Exclusive Common Area or to reassign Common Area previously assigned as Exclusive Common Area to one (1) or more Lots to one (1) or more Owner(s) or Occupant(s) should such action be required in order to make a reasonable accommodation under the FHAA.

15.5 Dispute Resolution. Any Owner or Occupant must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute before that Owner or Occupant files any lawsuit against the Association, the Board, any director, or any agent of the Association. The Owner or Occupant shall, in such notice and at the hearing, make a good faith effort to explain the grievance to the Board and to resolve the dispute in an amicable fashion and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date no less than seven (7) or more than twenty-one (21) Days from the date of receipt of the notice of hearing by the person requesting the hearing.

15.6 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association against the Declarant or any Declarant-Related Entity under any circumstances whatsoever. Except as provided below, no other judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by Members holding ninety percent (90%) of the total Class "A" votes in the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of the Governing Documents against Class "A" Members other than the Declarant or a Declarant-Related Entity (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments against any party except for the Declarant or a Declarant-Related Entity as provided in Article 8; (c) proceedings involving challenges to ad valorem taxation; (d) counter-claims brought by the Association in proceedings instituted against it or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

15.7 Non-Merger. Notwithstanding the fact that Declarant is the current owner of the Properties, it is the express intention of Declarant that the easements established in the Declaration for the benefit of the Properties and Owners shall not merge into the fee simple estate or ground leasehold (including, without limitation, a Long-Term Leasehold Interest) of individual lots conveyed or leased by Declarant or its successor, but that the estates of the Declarant and individual lot owners shall remain as separate and distinct estates. Any conveyance or lease or assignment of lease as aforesaid or otherwise of all or a portion of the Properties shall be subject to the terms and provisions of this Declaration, regardless of whether the instrument of conveyance, lease or assignment refers to this Declaration.

15.8 Grants. The parties hereby declare that this Declaration, and the easements created herein shall be and constitute covenants running with the fee simple estate or ground leasehold (including, without limitation, a Long-Term Leasehold Interest) of the Properties. The grants and reservations of easements in this Declaration are independent of any covenants and contractual agreements undertaken by the parties in this Declaration and a breach by either party of any such covenants or contractual agreements shall not cause or result in a forfeiture or reversion of the easements granted or reserved in this Declaration.

15.9 Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional recorded covenants, restrictions, and declarations. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants, restrictions and declarations applicable to any portion of the Properties from containing additional covenants, restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

15.10 Use of "The Reserve at Barefoot Landing on Lake James" Name and Logo. No Person shall use the words "The Reserve at Barefoot Landing on Lake James" or the logo for "The Reserve at Barefoot Landing on Lake James" or any derivative in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the words "The Reserve at Barefoot Landing on Lake James" in printed or promotional matter where such terms are used solely to specify that particular property is located within The Reserve at Barefoot Landing on Lake James, and the Association and any other community association located in The Reserve at Barefoot Landing on Lake James, the Declarant, Declarant-Related Entities and the owner of any Private Amenity shall each be entitled to use the words "The Reserve at Barefoot Landing on Lake James" in their names.

15.11 Compliance. Every Owner and Occupant of any Lot shall comply with the Governing Documents. Failure to comply shall be grounds for an action by the Association, the Declarant, or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3.

15.12 Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title or to assign the ground leasehold interest (including, without limitation, a Long-Term Leasehold Interest) to a Lot shall give the Board at least seven (7) Days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. After the transfer of title, the transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Board as required pursuant to the By-Laws, notwithstanding the transfer of title.

15.13 Compliance with the Act. It is the intent of the provisions of the Governing Documents to comply with the provisions of the Act, and nothing in the Governing Documents shall contravene or be inconsistent with the Act, or any other applicable federal, state or local law or regulation. To the extent that anything in the Governing Documents conflict with any such legal requirement, the Governing Documents shall comply to the fullest extent possible in accordance with all applicable law. In the event of an amendment of the Act, the Association, and during the Development and Sale Period, the Declarant, shall have the right to amend the Governing Documents to comply with the Act, as required, or, at the Declarant's option, to otherwise exercise any newly created rights to benefit the Association, or during the Development and Sale Period, the Declarant, which result from amendment to the Act or to any other applicable law.

15.14 Exhibits. Exhibits "A", "B", and "C" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 15.2.

[Signature on following page]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 30th day of October, 2025.

DECLARANT:

THE RESERVE AT BAREFOOT LANDING
ON LAKE JAMES, LLC, a North Carolina
limited liability company

By: _____ (SEAL)

Name: Jeffery Cernuto

Title: Manager

STATE OF NORTH CAROLINA

COUNTY OF Mecklenburg

On this 30 day of October, 2025, Jeffery Cernuto, personally appeared before me, and acknowledged that he is the Manager of The Reserve at Barefoot Landing on Lake James, LLC, a North Carolina limited liability company (the "Company") and that by the authority duly given, he executed the foregoing instrument on behalf of and as the act of the Company.

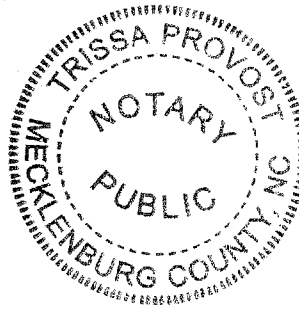
WITNESS my hand and notarial seal at office, this 30 day of Oct, 2025.

Trissa Provost, Notary Public

Trissa Provost
Print Name here

NOTARY SEAL:

My Commission expires: 4-21-2026



JOINDER

Barefoot Landing Partners, LLC, joins this Declaration to acknowledge and agree to the terms of Section 11.1(b) herein.

BAREFOOT LANDING PARTNERS, LLC, a
North Carolina limited liability company

By: Edward Johnson (SEAL)

Name: Edward Johnson

Title: Manager

South
STATE OF ~~NORTH~~ CAROLINA
COUNTY OF YORK

On this 29 day of October, 2025, D. Edward Johnson, personally appeared before me, and acknowledged that he is the Manager of Barefoot Landing Partners, LLC, a North Carolina limited liability company (the "Company") and that by the authority duly given, he executed the foregoing instrument on behalf of and as the act of the Company.

WITNESS my hand and notarial seal at office, this 29 day of October, 2025.

Kailee M Marshall, Notary Public

Kailee M Marshall
Print Name here

NOTARY SEAL:

My Commission expires: 6/26/2035

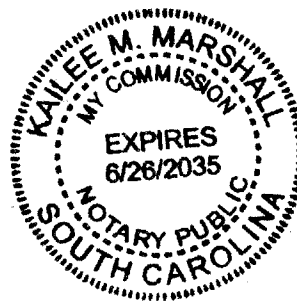


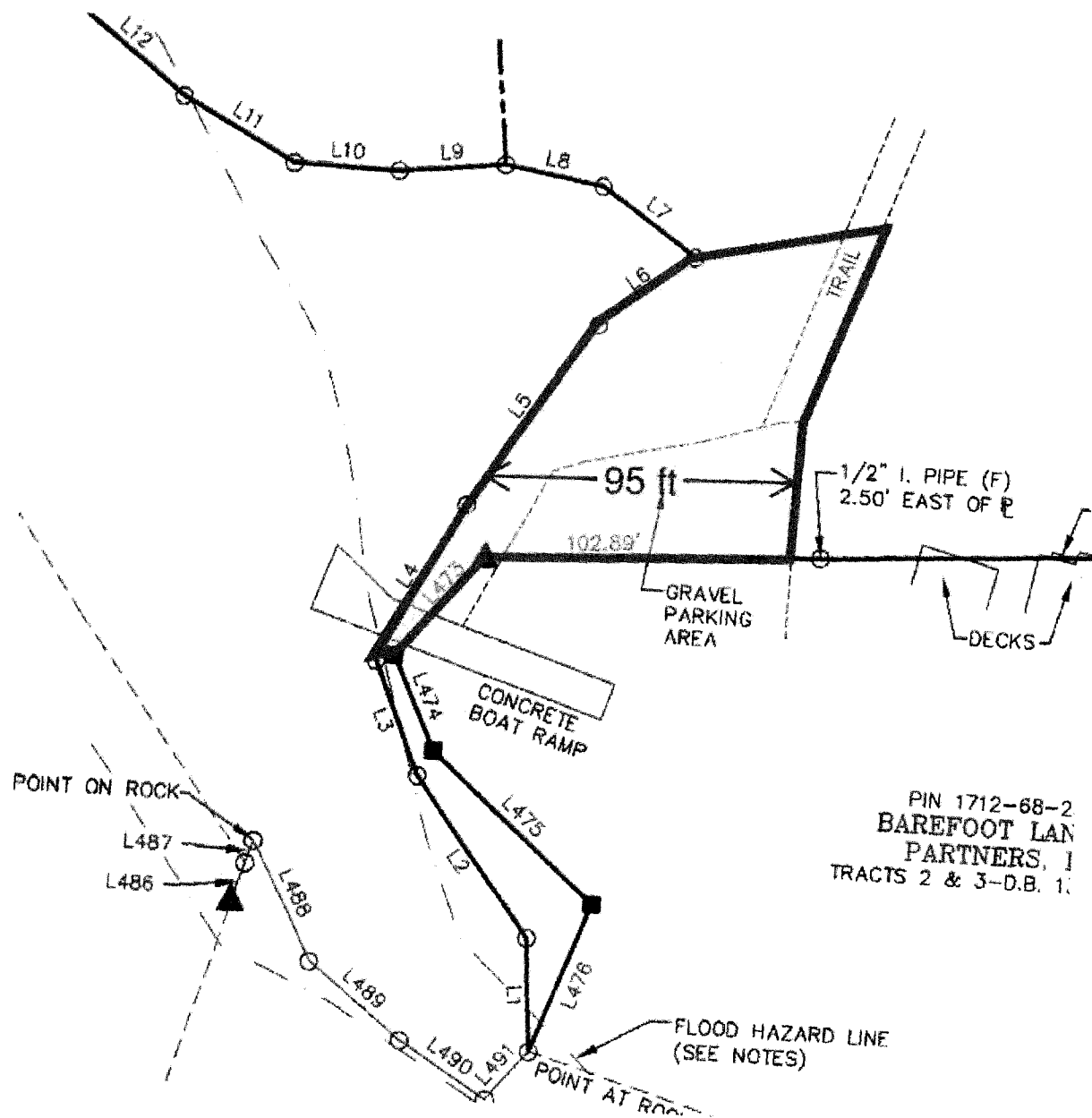
EXHIBIT "A"**Land Initially Submitted**

All those tracts and parcels of land located in Marion Township, McDowell County, North Carolina, as depicted as Lease Sites 1-3, Lots 4-28, Lease Sites 29-36, Lots 37-85, Lease Sites 86-100, Lots 101-107, on that certain "Major Subdivision of The Reserve at Barefoot Landing" prepared by Lake Norman Surveying and Mapping, PLLC, and recorded in the Public Records on February 27, 2024, at Plat Book 42, Page 47, TOGETHER WITH all those tracts and parcels of land located in Marion Township, McDowell County, North Carolina, as depicted as Lots 108-119, Lease Sites 120-125, and Lots 126-142 on that certain "Major Subdivision of The Reserve at Barefoot Landing—Phase 1, Revision of Plat Book 42, Page 47" prepared by Lake Norman Surveying and Mapping, PLLC, and recorded in the Public Records on October 23, 2025, at Plat Book 46, Page 91 (collectively, the "Plat").

EXHIBIT "B"**Additional Property**

All those tracts or parcels of land lying and being within two (2) miles of the perimeter boundary of the land described in Exhibit "A" and located in McDowell County, North Carolina.

EXHIBIT "C"

Depiction of Boat Launch Easement Area

1624414446.2

C-1

THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS.