



**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
BALDWIN PEAK**

EACH PERSON ACQUIRING A LOT IN BALDWIN PEAK IS BOUND BY ALL OF THE TERMS AND PROVISIONS OF THIS DECLARATION AND MUST READ IT IN ITS ENTIRETY IN ORDER TO BE FULLY AWARE OF ALL REQUIREMENTS IMPOSED. AMONG SUCH REQUIREMENTS ARE THE FOLLOWING:

- THAT EACH OWNER OF A LOT BE A MEMBER OF, AND PAY ASSESSMENTS TO, BALDWIN PEAK HOMEOWNERS' ASSOCIATION, INC.
- THAT APPROVAL OF THE ARCHITECTURAL REVIEW COMMITTEE BE OBTAINED BEFORE COMMENCEMENT OF ANY IMPROVEMENTS UPON OR DISTURBANCE OF A LOT OCCURS.

THE RECITATION OF CERTAIN REQUIREMENTS OF THIS DECLARATION ABOVE DOES NOT RELIEVE ANY OWNER OF A LOT IN BALDWIN PEAK FROM THE REQUIREMENTS OF ALL PROVISIONS OF THIS DECLARATION AND ANY AMENDMENTS TO THIS DECLARATION WHICH MAY HEREAFTER BE RECORDED.

AS SET FORTH IN THIS DECLARATION, THE DECLARANT RESERVES TO ITSELF THE RIGHT TO MODIFY, ALTER OR CHANGE THE DEVELOPMENT PLAN FOR BALDWIN PEAK CONSISTENT WITH THE UNIFORM SCHEME OF DEVELOPMENT FOR BALDWIN PEAK. DECLARANT HAS RESERVED CERTAIN RIGHTS TO UNILATERALLY AMEND THIS DECLARATION AS PROVIDED IN ARTICLE 18, SECTION 3 HEREOF. DECLARANT HAS ALSO RESERVED THE RIGHT TO ANNEX ADDITIONAL PROPERTY INTO BALDWIN PEAK.

Prepared by and Hold for:
Nicholas Robinson
Attorney at Law

**PROTECTIVE COVENANTS AND RESTRICTIONS FOR
BALDWIN PEAK SUBDIVISION
CHATHAM COUNTY, NORTH CAROLINA**

THIS DECLARATION is made on this 16 day of July, 2008 by Turnberry Development Group, LLC, a North Carolina corporation (hereinafter referred to as the “Declarant”);

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property located in Chatham County, North Carolina described in Article I below (“the Property”);

WHEREAS, Declarant will convey all Lots (as defined below) which are part of the Property subject to certain protective covenants, conditions, restrictions, reservations and charges as hereinafter set forth; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of property values, amenities and conceptual intent of the Property, for the maintenance of Common Properties (as defined below) and improvements thereon as described herein, and accordingly desires to subject the Property, together with such additions and/or deletions as may hereafter be made, to the covenants, restrictions, easements, affirmative obligations, charges and liens as hereinafter set forth (herein called either the “Declaration” or the “Covenants” which is further defined below) each and all of which is hereby declared to be for the benefit of said Property and each and every owner of any and all parts thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities of the Property to create an agency to which shall be delegated and assigned the power and authority of owning, maintaining and administering the Common Properties, administering and enforcing the covenants and restrictions governing said Common Properties, collecting and disbursing all assessments and charges necessary for such activities, and promoting the health, safety, and welfare of the residents; and

WHEREAS, Declarant has caused or will later cause to be incorporated under the laws of the State of North Carolina as a nonprofit corporation the Baldwin Peak Homeowners Association, Inc. for the purpose of exercising the functions described above, and which are hereinafter more fully set forth.

NOW, THEREFORE, in consideration of the premises and covenants set forth herein, Declarant declares that the Property, and such additions and/or deletions thereto as may hereafter be made, is and shall be held, transferred, sold, conveyed, leased, occupied, and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations, and liens hereinafter set forth in this Declaration, and the Covenants shall run with the Property and be binding on all persons claiming under and through Declarant, and the Covenants shall inure to the benefit of each owner thereof.

ARTICLE I – SUBJECT PROPERTY

The real property (the “Property”) which is, and shall be held, transferred, sold and conveyed subject to these protective covenants is located in the County of Chatham, State of North Carolina, and is more particularly described as follows:

BEING all of Lots 1 through 28 as shown on the plat map(s) of Baldwin Peak Subdivision as recorded in Plat Book 2008, Page 215, Chatham County Registry.

ARTICLE II – DEFINITIONS

As used herein:

1. **“Accessory Structure” or Accessory Structures**” shall mean and refer to such accessory structures other than the primary Dwelling Unit as are approved in advance in writing by the Architectural Review Committee pursuant to the Guidelines, including, without limitation, to the extent allowed by applicable law, accessory structures incidental to the use of the primary Dwelling Unit such as housing for domestic employees of the Owner of the primary and any other Dwelling Units, secondary Dwelling Units, carriage houses containing residential quarters, cabins, studios, garages, pavilions, gazebos, potting sheds, storage sheds, tree houses, playhouses and guest cottages for guests of the Owner of the primary and other Dwelling Unit.
2. **“Additional Declaration”** shall mean and refer to any Declaration of Covenants, Conditions and Restrictions filed in the Office of the Register of Deeds of Chatham County, North Carolina, with regard to a certain Phase, section or portion of the Property, as more particularly described in Article I hereof.
3. **“Architectural Review Committee”** shall mean and refer to the committee appointed by the Board to oversee the development and enforcement of architectural control standards and restrictions with respect to the Project and to perform certain other functions described in the Declaration.
4. **“Articles of Incorporation”** shall mean and refer to the Articles of Incorporation for the Association attached as Exhibit “___” hereto and incorporated herein by reference.
5. **“Association”** shall mean and refer to the Baldwin Peak Homeowners Association, Inc., a North Carolina nonprofit corporation, organized or to be organized for the care, maintenance and improvement of the roads, casements and common areas of Property, for the enforcement of the provisions of these covenants, and to engage in such activities as may be to the mutual benefit of the owners of Lots forming a part of the Property.
6. **“Board” or “Board of Directors”** shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.
7. **“Bylaws”** shall mean and refer to the Bylaws for the Association attached as Exhibit “___” hereto and incorporated herein by reference.
8. **“Caretaker”** shall mean and refer to the individual (if any) employed by the Association, or by the independent manager of the Project for the benefit of the Association, to perform certain maintenance services with respect to the Common Area and improvements located thereon, and to administer certain activities of the Association, all as may be set forth in any agreement entered into by such Caretaker and the Association or independent manager of the Property, which agreement shall be subject to review and approval of the Association.
9. **“Certificate of Occupancy”** shall mean and refer to any required certification issued by the appropriate governmental authorities as a prerequisite to occupancy of any structure on the Property.
10. **“Common Areas”** shall mean all properties dedicated for the common use and enjoyment of the members of the Association as shown on the recorded plat for the Property.
11. **“Declarant”** shall mean and refer to Turnberry Development Group, LLC, a North Carolina limited liability company, its successors in title and assigns, provided that any such successor-in-title or assign shall acquire for the purpose of development and/or sale all or substantially all of the remaining underdeveloped or unsold portions of the Property and, provided further, that in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign shall acquire for the purpose of development and/or sale all or substantially all of the remaining

undeveloped or unsold portions of the Property and, provided further, that in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign is designated as the “Declarant” hereunder by the grantor of such conveyance, which grantor shall be the “Declarant” hereunder by the grantor of such conveyance, which grantor shall be the “Declarant” hereunder at the time of such conveyance. Provided further, that upon such designation of such successor Declarant, all rights, duties and obligations of the former Declarant in and to such status as “Declarant” hereunder shall cease, it being understood that as to all of the Property, their shall be only one person or legal entity entitled to exercise the rights and powers of the “Declarant” hereunder at any time.

12. **“Declaration”** shall mean and refer to this Declaration of Covenants, Conditions and Restrictions as same may be amended and/or supplemented from time to time as herein provided.
13. **“Dwelling”** shall mean a building designed for, or used for, human occupancy.
14. **“Entrance Monument Easements”** shall mean and refer to the easements reserved by Declarant and granted to the Association in Article “14” hereof over, across and under certain areas of the Property, for the installation and maintenance of entrance monuments, landscaping and related improvements for the Project, all as more particularly described in Article “5”.
15. **“Environmentally Unsound”** shall mean soil erosion, ungrassed land (except gardens or woodlands) and the use of chemicals or other materials that may pollute ground or surface water, the soil or plants or animal life (other than the specific pest at which it is directed).
16. **“Exceptional Maintenance”** shall mean all roadway or driveway maintenance required as a result of damage caused by heavy or tracked vehicles especially including those that may be used in construction.
17. **“Gate(s)”** shall mean and refer to one or more electric or electronic gates or similar devices to control and limit access to the Project.
18. **“Lot”** shall mean any improved or unimproved parcel of land with delineated boundary lines shown on any recorded subdivision map or plat of the Property intended for the construction of an attached or detached single family dwelling unit, with the exception of the Common Areas (as defined below).
19. **“Maintenance Areas”** shall have the meaning as set forth in Article “14” hereof.
20. **“Member”** shall mean and refer to every person or entity that holds membership in the Association.
21. **“Mobile Home”** or **“Modular Home”** shall mean a structure intended for use as a residential dwelling consisting of one or more transportable sections built off-site and transported to the site for later placement and/or assembly on-site, whether or not the structure complies with the North Carolina State Building Code.
22. **“Occupant”** shall mean and refer to any person occupying all or any portion of a Lot or the Property for any period of time, regardless of whether such person is a tenant of the Owner of such Lot or portion of the Property.
23. **“Owner”** shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Property excluding those having such interest merely for the performance of an obligation.
24. **“Period of Declarant Control”** shall have the meaning set forth in Article “15” hereof.

25. **“Phase”** shall mean and refer to any phase, section or portion of the Property for which a separate Plat or Plats are recorded in the Office of the Register of Deeds of Chatham County, North Carolina.
26. **“Plat”** shall mean and refer to any plat of the Property or any part of it which is recorded from time to time in the Office of the Register of Deeds of Chatham County, North Carolina, and any and all revisions thereof.
27. **“Project”** shall mean and refer to the residential development and amenity facility being developed by Declarant on the Property and commonly known as Baldwin Peak.
28. **“Property”** shall mean and refer to that certain real property located in Chatham County, North Carolina, and more particularly described as all of Lots 1 through 28 as shown on the plat map(s) of Baldwin Peak Subdivision as recorded in Plat Book 2008, Page 215, Chatham County Registry, and incorporated herein by reference, as well as such additional property as may be made subject to the provisions of this Document hereof.
29. **“Roadways”** shall mean and refer to the roads, streets, entranceways and cul-de-sacs (if any) in the Project, shown on the Plats, and any other roads, streets, entranceways and cul-de-sacs on the Property, all to be privately maintained as Common Area by the Association.
30. **“Supplemental Declaration”** shall mean and refer to any Supplemental Declaration of Covenants, Conditions and Restrictions filed in the office of the Register of Deeds of Chatham County, North Carolina, to bring additional property within the coverage of this Declaration and jurisdiction of the Association.

ARTICLE III – LOTS AND VARIANCE OF LINES

Each Lot shall comprise a tract of land having an area shown on the recorded Plat(s) of the Property. The lines and boundaries of the Lots shown on the aforementioned Plat(s) may not be further subdivided so as to create two Lots out of an one Lot, nor may the Owners of any Lot vary the lines and boundaries of said Lot except in accordance with the rules and regulations of appropriate Chatham County governmental agencies or other governmental agencies that may have jurisdiction over the Property.

ARTICLE IV – BUILDING AND SETBACK REQUIREMENTS, CONSTRUCTION DEADLINE

Section 1. No dwelling house, building, landscaping, fence or other structure of any kind shall be erected, placed or altered on any Lot until the building plans with written specifications and exterior colors and finishes have been approved in writing by the Declarant, its agent, or the Architectural Review Committee (“ARC”) of the Association.

Section 2. Each Lot Owner must submit two sets of plans and specifications to the Declarant or ARC for review and approval before initiating any construction or improvement on the Lot. Declarant or the ARC shall respond within thirty days of receipt as to the approval of such plans, specifications and colors, or disapproval, or approval with conditions. In the event the Declarant or ARC does not respond within thirty days of receipt by the owner, the plans shall be deemed approved. Approval by Declarant or ARC shall not constitute approval of any plans or specifications by Chatham County or North Carolina Authorities.

Section 3. No building shall be erected, altered, placed or permitted to remain on any Lot other than one single-family dwelling not to exceed three stories in height above the natural grade line and one attached private garage for not less than three cars, and three outbuildings as restricted herein; however, that a guest house may be kept and maintained as part of a dwelling or an outbuilding constructed in accordance with the Article if said guest house is approved by Chatham County and other appropriate governmental authorities, and provided no more than four (4) persons reside in said guest house and no condition or activity is carried on, in, or created by said use of the guest house for residential purposes which is noxious or offensive to any other Lot Owner.

Section 4. In the event a guest house is located in an outbuilding, said outbuilding may also be used for some other permitted use as defined by Article VII below.

Section 5. One-story Dwellings shall have a minimum ground floor area of the main structure, exclusive of basements, porches, garages and storage areas, of no less than 4,000 square feet; said dwellings must also have garage suitable for housing a minimum of three cars. Dwellings with more than one floor of heated living area shall have a ground floor area of the main structure, exclusive of basements, garages and storage areas of not less than 3,000 square feet and a total heated living area of not less than 5,000 square feet. Once construction has begun on any approved foundation, the exterior must be completed within twelve months. A ten percent (10%) variance may be granted on the minimum square footage, provided the construction contract is priced in a manner to protect the minimum value.

Section 6. Construction of the Dwelling on a Lot must begin within Three (3) years of the purchase of a Lot from the Declarant by either an approved builder. Once construction has begun on an approved foundation, the exterior must be completed within Twelve (12) months thereafter. Should this timeline not be met, a fine of \$5,000 per month shall be charged by the developer until exterior is completed.

Section 7. No Mobile or Modular Homes shall be erected, altered, placed or remain on any Lot. Log homes shall not be permitted to be erected or placed on a Lot and may not remain on any Lot. No dwelling shall have or contain metal siding or exposed cinder block. All materials used in the exterior construction of a dwelling or outbuilding shall be new building materials unless specifically approved in writing by the Declarant or the ARC. All exterior materials shall be brick, stone, and stucco or approved siding materials such as Hardiplank®, cedar, redwood or cypress.

Section 8. Accessory structures shall be permitted on the Property subject to the restrictions contained herein, and as these restrictions may be amended. The plans and specifications for any accessory structure must be approved in writing by either the Declarant or the ARC. Accessory structures shall not exceed three (3) in number on any Lot. An Accessory structure may not be greater than 4,000 square feet in area, nor exceed thirty (30) feet in height, and in the event more than one Accessory structure is planned or constructed, the second such structure shall not exceed 1,000 square feet in area nor fifteen (15) feet in height. The third building shall not exceed 500 square feet and shall not be more than fifteen (15) feet in height. All Accessory structures must meet the legal requirements of Chatham County, North Carolina.

Section 9. A one hundred (100) foot natural area setback shall exist on all property boundaries wherein no building or other structures may be placed, except for property bordering Pokeberry Creek, in which case those setbacks shall be 100 feet from the creek. No vehicles or boats or trailers may be parked, no materials of any kind may be permanently kept or stored in these setback areas. In such setback area the trees shall not be cut but shall remain for a privacy screen between the Lots; provided, however, that this setback area can be cleared of the following: (a) dead, dying or diseased trees; (b) bushy vegetation, vines, poisonous plants and similar items; and (c) any tree that is four inches or less in diameter at a 4 ft. height. In addition, the following are allowed in said natural area setback: (a) activities required for the installation and maintenance of septic systems and wells; (b) selected clearing of trees and/or construction of improvements within the easements noted on the recorded plat as may be agreed upon by the Association; (c) driveways and utility lines which may cross said natural area but may not run parallel to a boundary line inside the natural area except as approved in writing by the Declarant or the ARC. The removal of trees within the natural area setback for the allowed activities must be kept at the minimum necessary to complete the activity; (d) private decorative fencing approved by the Declarant or the ARC may be installed on said property with an eight (8) foot setback from the side and back property lines. Private fencing shall have a thirty (30) foot set back from the front property line, which is identified as where the grass meets the road for said purpose. Natural area and tree removal shall be at a minimum, to maintain natural setting. Fences shall not exceed six feet in height; (e) private, decorative gates on individual driveways approved by the Declarant or the ARC may be installed on said property Thirty (30) feet back from the driveway monument entrances.

Section 10. No building located on any Lot shall be nearer than 100 feet to the edge of any subdivision road right of way or state road right of way. No dwelling may be located on any Lot closer than 100 feet to any other boundary line. No outbuilding shall be located on any Lot neither closer than 100 feet to the front boundary line nor closer than 100 feet to any rear or side boundary line.

Section 11. In the event a Lot Owner builds a dwelling on two or more adjacent Lots, the multiple Lots shall be considered as one for the purposes of setback measurements.

Section 12. Lots may have aboveground septic disposal drip systems. There shall be a variance in the setbacks for aboveground septic disposal systems for said Lots such that no residential dwelling on any of said Lots shall be located closer than 200 feet to said aboveground disposal system. Construction of any building within 200 feet of such a septic disposal system shall constitute a waiver of any rights or claims, at law or in equity, against any property owner, the ARC or the Declarant; and acceptance of any building or parcel of land in violation of said 200 foot setback shall constitute a waiver of any rights or claims, at law or in equity, against any property owner, the ARC or the Declarant.

ARTICLE V – LANDSCAPING

Section 1. Driveway Entrance. The plans and specifications provided by the Declarant or the ARC for each Dwelling shall include a full scale plan, to include: entrance monument design materials to be utilized, lighting, driveway crossing and drainage design. Said plan must be installed on both sides of the driveway at the main street intersection. Should the property have a circular driveway, then plan must be duplicated at each point of street intersection. The entry landscape plan shall have a minimum value of \$10,000 exclusive of the columns. Driveways shall be made of a solid surface from the street until out of sight, and then consist of a solid surface parking pad in front of garages. Simple stone driveways viewed from the street will not be allowed.

Section 2. House Landscaping. The plans and specifications submitted to the Declarant or the ARC for each Dwelling shall include a landscape plan. The plan shall have a minimum value of \$75,000 and all landscaping must be completed prior to Owner occupancy. In the event the weather conditions do not allow the completion of the landscaping prior to move-in, the Owner shall place the landscaping funds in trust with the ARC together with a copy of the contract. The owner shall then have 90 days to have the work completed. In the event the work has not been completed, the Declarant or the ARC may order the work completed and paid for from the funds held in trust for the landscaping.

ARTICLE VI – RESTRICTED BUILDERS

All Lot Owners have been made aware of, acknowledge and accept the Declarant's right to limit the approved builders in the Subdivision to those builders approved by the Declarant. The Declarant shall furnish the list of approved builders to each Lot Owner prior to the commencement of any home construction. The Declarant shall maintain a list of not less than five (5) approved builders. The homeowner may select or competitively bid between the builders. The Declarant shall notify the owners of any change in the approved builder team within fifteen (15) days of any change.

ARTICLE VII – NO NOXIOUS OR OFFENSIVE ACTIVITY

Section 1. No noxious, offensive or environmentally unsound activity, condition or trade shall be carried on or permitted upon any Lots, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No plants or animals, or device or thing of any sort whose normal activity of existence is in any way noxious, dangerous, unsightly, and unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood shall be permitted. Riding of motorcycles, go-carts, or any other similar vehicles

shall not be permitted across the Property unless such vehicles are sufficiently quiet so as not to be a nuisance. Four wheel all terrain vehicles shall not be operated on the Property. No trade materials or inventories may be stored upon the Lots unless said materials are kept in an allowed building or structure, and no inoperable automobiles may be stored or regularly parked on the Lots unless completely enclosed in an allowed building. No sign or billboard shall be placed, erected or maintained on any Lot, excepting "For Sale" signs of not more than five (5) square feet in area.

Section 2. No hunting or discharge of weapons is allowed on any Lot or other land which is a part of the Property. No target practicing with bows or firearms is allowed on any Lot or other land which is part of the Property. Boats and recreational vehicles must be stored inside an allowed outbuilding or otherwise to the rear of the home so as not to be visible from any street or adjoining Lot. No yard lights shall be allowed to shine directly into adjoining Lots and such lights must be placed at least fifty (50) feet from any boundary line.

ARTICLE VIII – USES

All Lots shall be used only for single family residential purposes or such other permitted uses as is specifically permitted by this Article VIII. No Lot shall be used for business, manufacturing or commercial purposes, except as specifically permitted herein. Except as specifically permitted herein, no Dwelling or outbuilding may be used as a church, fraternity house, rooming house, boarding house, motel, and office or retail space for lease, doctor's office or any medical related business. A professional office, including but not limited to, the business of law, real estate, accounting, computer related services or other similar in-house businesses are allowed, provided that at least one resident family member is a partner or principal owner of the business and further provided that said activity shall not cause excessive traffic within the subdivision.

ARTICLE IX – OTHER PERMITTED USES

The owner of a Lot may use said Lot for one or more of the following purposes:

- a. To cultivate and maintain a garden for personal use, as provided by Article X below.
- b. To carry on any business upon a Lot provided that: (1) said Lot is also used for residential purposes by the owners of said Lot; (2) only immediate family members and one non-family member is involved or employed by said business; (3) said business is not illegal; (4) business shall not create constant or frequent daily traffic resulting from customer sales or transport of inventory or trade materials; (5) no signs are located upon the Lot regarding the business; (6) such business is located and maintained solely within the residential dwelling of the owner or an allowed outbuilding, excepting that a business involving allowed agricultural pursuits will be permitted outside of the home or outbuilding; (7) no activity involving the business creates noise, smoke, odor, or unsightly conditions or other noxious condition offensive to any other Lot owner exercising reasonable judgment relative thereto; and (8) the primary function of the business is passive in nature and would blend in with a residential environment.
- c. That written approval of the proposed business must be received from the Declarant or the Association's Board of Directors, stating that the business is in keeping with the intent of these covenants, prior to commencement of operations of the business on the Lot.

ARTICLE X – RESTRICTIONS

Section 1. Crops. An owner of a Lot may plant, cultivate and harvest a garden upon said lots provided said fruits and vegetables are planted and cultivated solely for use and consumption by the Lot Owner, his family and guests.

Section 2. Pets. Horse, dogs, cats and other domesticated household pets may be kept and maintained upon a Lot for the personal enjoyment of the Lot Owner and immediate family residing on said Lot provided that: (1) no Lot Owner may keep and maintain a dog or cat kennel, veterinarian office, pet grooming business, or zoo; (2) said pets are kept under proper supervision and control so as not to cause or create a nuisance or menace to owners and occupants of other Lots; and (3) said pets are kept on the Lot of its owner and not allowed to go upon the Lots of others or run free and unrestricted through the subdivision. Not more than an aggregate of four dogs, cats and other permitted pet animals, excluding the offspring of such animals that are less than four months old, may be kept or maintained on any Lot. Horse shall not be allowed on private streets, only on individual property.

Section 3. Excluded Animals. The keeping of any of the following animals is prohibited: (1) swine; (2) ostriches; (3) emues; (4) peacocks; (5) any wild or exotic animal; (6) cows, sheep and goats; (7) any other animal which by its nature or disposition is dangerous to the residents of the Lots or other.

Section 4. Antennas. Satellite antennas known as DSS or other dish receivers are limited to size to two (2) feet in diameter. The location must be in the rear of any home either in the yard or on the roof and shall not be visible from the street or any adjoining Dwelling. Prior to installation, a site plan must be submitted to the Declarant or the ARC and approved. All efforts will be used to screen any dish. Short wave antennas are not permitted nor are TV antennas unless enclosed within an approved structure.

Section 5. Temporary Structures. No structure of a temporary nature, mobile homes, trailers, campers, vans, basements, tent shacks, temporary garages, temporary barns, or other similar outbuildings shall be erected, placed, used or permitted on any Lot for any purpose.

Section 6. Garbage, Refuse and Debris. It shall be the responsibility of each Lot owner to prevent the development of any unclean, unhealthy or unsightly conditions of buildings or grounds on the Lots. All Lots shall be kept clean and free of garbage, junk, trash, debris and any substance that might contribute to a health hazard or to the breeding and inhabitation by snakes, rats, insects or other pests and vermin. Each Lot owner shall provide receptacles for garbage in an area not generally visible from the street or adjacent Lots or provide underground garbage receptacles or similar facilities in accordance with reasonable standards, and all trash shall be disposed of in a timely manner by a garbage service or by the owner at least once each week.

The Association shall have any Lot cleaned to meet these requirements if the owner fails to do so, and may bill the homeowner for said work. Should the bill not be paid within thirty days, the Association shall file a lien on the property for the amount owed plus any and all legal and other collection costs incurred.

Section 7. Storage Tanks. No fuel tanks or similar storage receptacles are allowed which are visible from any street or another Lot. Such receptacles must be installed within the main dwelling house, within an authorized outbuilding, buried underground, or must be screened from view from the street and adjoining Lots by wooden privacy fencing fully concealing the receptacle from view. Each Lot Owner shall also comply with all other applicable laws, rules and regulations governing the use and storage of such receptacles.

Section 8. Public Water System: No Private Individual Wells, Irrigation Restriction. All water supplies necessary to serve the Project (the "Water System"), and all water mains, pipes and other equipment necessary for the operation and maintenance of the Water System, shall be owned, operated, repaired and maintained by Chatham County, which is duly licensed and operating under the authority granted by the North Carolina Department of Public Utilities Commission. All Owners shall connect to the Water System for domestic water service. The Water System shall be the sole provider of water supply to the Project, and no well may be dug or constructed on any Lot for the purpose of providing domestic water supply; provided, however, subject to the approval of the ARC, wells may be dug or constructed for uses including heating, cooling, and irrigation systems.

Section 9. HVAC Equipment. No air conditioning or heating equipment or apparatus shall be installed on the ground in front of, or attached to any front wall of, any Dwelling Unit or Accessory Structure on a Lot. Additionally, air conditioning and heating equipment and apparatus shall be screened from view from Roadways by landscape improvement, as more particularly provided in the Guidelines.

Section 10. Mail and Newspaper Boxes; House Numbers. Each Lot Owner, at such Lot Owner's expense, shall purchase a mailbox/newspaper box of the standard type and from the vendor specified by Declarant, and shall install and maintain, at such Lot Owner's expense, such standard mailbox/newspaper box for such

Owner's use on such Owner's Lot. No other mailbox or newspaper box shall be erected or maintained on any Lot. The location of the mailbox/newspaper box on a Lot must be approved in writing by the ARC. House numbers may be displayed on the Dwelling Unit and/or mailbox only as approved by the ARC. Declarant shall not be responsible for the installation or maintenance of any mailbox or newspaper box.

Section 11. Fencing. All fencing must be approved in advance by the Declarant or the ARC in the same manner as any structure. No wire fencing shall be permitted on any Lot. Permanent approved fencing will be allowed to be placed within the setback areas (as stated in Article IV, section 9), except where adjoining Lot owners agree to build a joint fence on the property line. No fencing of any kind will be allowed to be built within the easement system. All fencing installed must be kept in good repair so as to maintain a neat appearance.

Section 12. Utilities. All utilities and utility connections shall be located underground, including electrical, telephone and cable television lines. Transformers, electric, gas or other meters of any type, or other apparatus shall be located at the rear of the buildings constructed on Lots or, if approved by the ARC in writing, located elsewhere on the Lot provided they are adequately screened as required by the ARC in accordance with the provisions of this Declaration.

Section 13. Sediment Control. Sufficient sediment control measures, including, but not limited to, installation and maintenance of silt fences, straw bale fences, storm water inlet protection and temporary seeding, to the extent deemed reasonably necessary by Declarant or the ARC, shall be taken by the Owner or Owner's builder to ensure that all sediment resulting from any land disturbance or construction operation is retained on the Lot in question. All sediment control measures must be maintained until such Lot has been permanently stabilized with respect to soil erosion.

Section 14. Waste. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. During construction of Improvements on a Lot, all rubbish and debris shall be stored and disposed of in accordance with the rules and established by the ARC.

Section 15. Restricted Activities in Common Areas and Maintenance Areas. No cutting of vegetation, dumping, digging, filling, destruction or other waste shall be committed on the Common Areas or the Maintenance Areas except as approved by the Association and Declarant. There shall be no obstruction of the Common Areas or the Maintenance Areas, nor shall anything be kept or stored in the Common Areas or the Maintenance Areas, nor shall anything be altered, or constructed or planted in, or removed from, the Common Areas or the Maintenance Areas, nor shall water from any pond (if any) or stream or creek be drawn for irrigation or any other purpose, without the prior written consent of the Declarant and the Association. Each Owner shall be liable to the Association and/or Declarant for any damage to any Common Area and/or the Maintenance Area caused by the negligence or willful misconduct of the Owner or his family, tenants, guests, agents, employees, or invitees. Provided, however, the provisions in this paragraph shall not apply to the Declarant in connection with Declarant's construction activities on the Property.

Section 16. Parking; Storage.

- (a) No vehicles, trucks, vans, cars, trailers, construction equipment, etc. may be parked overnight on any Roadway within the Property.
- (b) Commercial-use vehicles and trucks not involved with construction activity on the Property and having a carrying capacity and/or size designation greater than or equal to three-fourth (3/4th) ton shall not be permitted to park overnight on the Roadways, driveways or otherwise within the Property, unless stored in an enclosed garage. No vehicle of any size which transports inflammatory or explosive cargo may be kept within the Property at any time. Vehicles that are not in a condition to be normally operated or that do not have a current registration tag may not be stored or situated on any Lot for more than thirty (30) days unless stored in an enclosed garage.

- (c) The Owner of each Lot will be responsible for providing on such Owner's Lot a sufficient paved parking area for all vehicles normally parked and/or situated on or in regard to such Lot.
- (d) No recreational vehicles or related equipment, including any boat, houseboat, trailer, motor home or "camper" vehicle may be maintained, stored or kept on any portion of the Property, except (to the extent allowed by the Board) in an enclosed garage, in an enclosure specifically approved for such maintenance or storage by the ARC, or in a location on a Lot that is not visible from any Roadway or any other Lot, which location has not been approved in advance by the ARC.
- (e) No construction office trailers may be placed, erected or allowed to remain on any Lots during construction, except as approved in writing by the ARC. Provided, however, nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto Lots owned by Declarant to be used as a construction or sales office. Other construction vehicles (trucks, vans, cars, construction equipment, equipment trailers, etc.) may be left overnight on the Property (including any Lot or Roadway) only in accordance with such rules as may be established by the ARC.

Section 17. Septic Maintenance. Each Lot Owner agrees to participate in the community approved, individual septic field maintenance agreement. The Association shall seek competitive bids from North Carolina Licensed persons to operate and maintain the individual septic systems for the community. Each Lot Owner shall be responsible to contract with the approved maintenance contractor. This contract will provide that all septic fields and septic systems shall be maintained in a manner acceptable to State and/or county codes.

ARTICLE XI - ARCHITECTURAL AND LANDSCAPING CONTROL

Section 1. General.

Notwithstanding anything contained in this Declaration to the contrary, no Improvements, including, without limitation, site preparation on any Lot, change in grade or slope of any Lot, or erection of buildings or exterior additions or alterations to any building situated upon the Property, erection of or changes or additions in fences, hedges, walls and other structures, any landscaping, or any cutting of trees on any Lot shall be commenced, erected or maintained on any portion of the Property, subject to the provisions of Article XI. Section 7 hereof, until: (a) the Architectural Review Committee, appointed as hereinafter provided, has approved the plans and specifications therefore and the location of such Improvements and has given its written approval for commencement of construction, all in accordance with the terms and requirements in the Guidelines (as defined in Section 3 of this Article VIII); (b) the fees set forth in or contemplated in this Article VIII have been paid; and (c) the contracts identified in this Article VIII have been executed. In addition to any standards established pursuant to this Declaration, Declarant may establish, by Additional Declarations, architectural and landscaping control standards, guidelines and restrictions in regard to various Phases or sections of the Property. Except as otherwise expressly provided herein, the provisions of this Article VIII shall not apply to the construction of any Improvements commenced, erected or maintained by Declarant on any Lot or upon any of the Common Areas or Maintenance Areas.

The Board may delegate to the Architectural Review Committee any powers or authority reserved or granted to the Board under this Article VIII.

Section 2. Composition of Architectural Review Committee.

So long as Declarant owns any Lot or other portion of the Property, the members of the Architectural Review Committee shall be appointed by Declarant in its sole discretion. At such time as Declarant no longer owns any Lot or other portion of the Property or at such earlier date as Declarant releases its right to appoint the members of the Architectural Review Committee, the members of the Architectural Review Committee shall thereafter be appointed by the Board. The members of the Architectural Review Committee shall be appointed annually and will be composed of at least three (3) and not more than seven (7) individuals, the exact number of members of the Architectural Review Committee to be designated from time to time by the body then having the authority to appoint such members (Declarant or the Board, as the case may be). The members of the Architectural Review Committee need not be Owners of property in the Project. In the event of the death or resignation of any member of the Architectural Review Committee, the party or body then having the authority to appoint members to the Architectural Review Committee shall have full authority to designate and appoint a successor. Members of the Architectural Review Committee may be removed and replaced at any time, with or without cause, and without prior notice, by the party or body then having the authority to appoint such members. Notwithstanding anything contained herein to the contrary, the Architectural Review Committee shall have the right, power and authority to employ and/or use the services of any architects, engineers, attorneys or other professionals as it deems necessary or advisable, in its sole discretion, to carry out the duties as obligations of the Architectural Review Committee as described in this Article VIII.

Section 3. Baldwin Peak Design Guidelines.

(a) The Architectural Review Committee shall, from time to time, publish and promulgate Baldwin Peak Architectural & Landscape Guidelines (collectively, the "Guidelines"), including architectural, design, and landscape guidelines. The Guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Review Committee in reviewing plans and specifications for Improvements. The Guidelines shall also set out, among other things, the procedures for submission, review and approval of plans and specifications to the Architectural Review Committee and the fees to be imposed by the Architectural Review Committee, as more specifically described in Article VIII, Section 8 hereof; and the Guidelines shall address the Guild Builders, as more specifically described in Article VIII, Section 9 hereof. In any event, the Guidelines shall not be binding upon the Architectural Review Committee, may be revised and amended at any time by the Architectural Review Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval or disapproval of plans, specifications and other materials submitted to the Architectural Review Committee for approval. Furthermore, the Architectural Review Committee may publish and promulgate different Guidelines for different Phases, sections or portions of the Property.)

b) The Guidelines shall also be explanatory and illustrative of the general intent of the landscape development of the Property and are intended as a guide to assist the Architectural Review Committee in reviewing plans and specifications for landscape Improvements. The Guidelines shall also set out, among other things, the following:

a. The procedures for submission, review and approval of landscape plans and specifications to the Architectural Review Committee and the fees to be imposed by the Architectural Review Committee, as more specifically described in Article VIII, Section 8 hereof;

b. Standards, methods and procedures for landscaping, landscape management and landscape maintenance in the Property, including the removal of trees; and

c. Standards, methods and procedures for landscaping, landscape management, and landscape maintenance of any part of a Lot that borders a perennial or ephemeral stream or drainage way. Such authorized standards, methods and procedures shall be utilized by Owners and their contractors and subcontractors, and the approval by the Architectural Review Committee of any landscaping plan or other landscaping improvement in connection with landscaping; on a Lot or other portion of the Property shall be based upon the conformity of such plan or improvement with the Guidelines.

(c) The Architectural Review Committee is also hereby authorized to publish and promulgate from time to time, and revise and amend at any time in its sole discretion, construction rules to be followed by all

Owners and builders performing work or constructing or installing Improvements (including landscape Improvements) on the Property.

Section 4. Definition of "Improvements".

The term "Improvement" or "Improvements" shall mean and include any and all man-made changes or additions to a Lot, including, but not limited to, the location, materials, size and design of all Dwelling Units (both primary and secondary), Accessory Structures, and other buildings (including any exterior devices attached to or separate from buildings, such as heating and air conditioning equipment, solar heating devices, lighting, antennae, satellite dishes, etc.); storage sheds or areas; roofed structures; parking areas; fences; "invisible" pet fencing; pet "runs," lines and similar tethers or enclosures; walls; irrigation equipment, apparatus and systems; landscaping (including cutting of trees); hedges; mass plantings; poles; driveways; ponds; changes in grade or slope; site preparation; swimming pools; hot tubs; Jacuzzis; tennis courts; tree houses; basketball goals; skateboard ramps; and other sports or play apparatus; signs; exterior illumination; and changes in any exterior color or shape. The definition of Improvements includes both original Improvements and all later changes to Improvements. The definition of Improvements, however, does not include the replacement or repair of Improvements previously approved by the Architectural Review Committee, provided such replacement or repair does not change exterior colors, materials, designs or appearances from that which were previously approved by the Architectural Review Committee.

Section 5. Enforcement.

(a) It is Declarant's intent that the architectural control provisions of this Declaration and any Additional Declarations are to permit control of the architectural design and landscaping and to establish quality standards for construction and construction activity in the Project and to help preserve values of properties in the Project. All Owners, by purchasing property subject to this Declaration, acknowledge that a violation of any such provisions could result in irreparable harm and damage to other Owners of property in the Project and to Declarant, and to the values of their respective properties in the Project, a monetary measure of which harm and damage would be difficult to establish. Accordingly, the Association shall have the specific right (but not the obligation) to enforce and/or to prevent any violation of the provisions contained in this Article VIII by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions. Declarant hereby specifically reserves and grants unto the Architectural Review Committee, the Board and any agent or member thereof, the right of entry and inspection upon any portion of the Property for the purpose of determination by the Architectural Review Committee or the Board whether there exists any construction of any Improvement which violates the terms of any approval by the Architectural Review Committee, the terms of the Guidelines, the terms of this Declaration or any Additional Declaration, or the terms of any amendments hereto or thereto.

(b) As to nonconforming or unapproved Improvements, the Association may require any Owner to restore such Owner's Improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved Improvements) if such Improvements were commenced or constructed in violation of this Article. In addition, the Association may, but has no obligation to, cause such restoration, demolition and removal to be performed and to levy the amount of the cost thereof as a Special Individual Assessment against the Lot or portion of the Property upon which such Improvements were commenced or constructed. The Association shall also have the right and power to levy fines and penalties in the amount and in accordance with the procedures determined by the Board, to the full extent allowed under the North Carolina Planned Community Act. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, to remove any unapproved Improvement or otherwise to remedy a violation of the Guidelines, the Association shall be entitled to recover court costs, attorneys' fees and expenses incurred by the Association and/or the Architectural Review Committee in connection therewith, and all fines and penalties levied by the Association, which costs, fees and expenses, fines, and penalties may be levied as a Special Individual Assessment against the Lot or other portion of the Property upon which such Improvement was commenced or constructed.

Section 6. Variances.

Upon submission of a written request for a variance, which request shall set forth, among other things, the extraordinary circumstances applicable to a Lot giving rise to the need for a variance, the Architectural Review Committee may, from time to time, in its sole discretion, permit Owners to construct, erect or install Improvements

which are at variance with restrictions, requirements or provisions of this Declaration or any Additional Declaration from which a variance is permitted, pursuant to the terms hereof or thereof. In any case, however, the Architectural Review Committee may grant a variance only due to the existence of extraordinary circumstances applicable to a Lot, which extraordinary circumstance (i) has not been caused by the Owner of such Lot and (ii) materially impairs the ability of an Owner to construct a Dwelling Unit on such Owner's Lot. Any variance granted shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community and shall not materially change the scheme of restrictions herein set forth. Written requests for variances shall be deemed to be disapproved in the event the Architectural Review Committee has not expressly and in writing approved such request within thirty (30) business days of the submission of such request. No member of the Architectural Review Committee shall be liable to any Owner for any claims, causes of action, or damages arising out of the grant or denial of any variance to any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Architectural Review Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder or under any Additional Declaration against any other Owner. If a variance is granted, the Owner receiving such variance shall comply with the more restrictive of the terms of the variance or applicable local, state or federal laws (including, without limitation, local zoning and development laws), and the granting of a variance shall not relieve any Owner from the obligation of complying with such laws. Notwithstanding anything contained herein to the contrary, in no event shall a variance granted by the Architectural Review Committee be deemed a waiver or assurance of any future variance requests.

Section 7. Fees Required by the Architectural Review Committee.

The Architectural Review Committee, in its sole discretion, may require that each Person submitting plans and specifications for Improvements to the Architectural Review Committee pay one or more fees to the Architectural Review Committee or to Declarant as a condition to commencement of construction of such Improvements. Such fee(s), including the amount(s), payee and purpose(s) thereof, shall be established by, and may be increased from time to time by, the Architectural Review Committee and shall be set forth in the Guidelines.

Section 8. Guild Builders.

(a) The Architectural Review Committee may require, in its sole discretion, that each Person submitting plans and specifications to the Architectural Review Committee for the construction of Improvements also submit to the Architectural Review Committee a copy of a fully signed contract (for the construction of such Improvements) between the Owner of the relevant Lot and a builder who is featured by the Board or the Architectural Review Committee, in their sole discretion (herein, a "Guild Builder"; collectively, the "Guild Builders"), as a condition to the commencement of construction of any such Improvements.

(b) The Architectural Review Committee shall provide a list of Guild Builders in accordance with the provisions of the Guidelines. To qualify as a Guild Builder, a builder must satisfy certain criteria and requirements established by the Architectural Review Committee and Declarant. However, the criteria and requirements established by the Architectural Review Committee and Declarant for a builder to qualify as a Guild Builder are solely for the Architectural Review Committee's and Declarant's protection and benefit and are not intended to, and shall not be construed to; benefit any Owner or any other party whatsoever. The Architectural Review Committee and Declarant make no representation, express or implied, to any Owner or any other party whatsoever with regard to the Guild Builders, including, without limitation, the existence, nature and extent (including coverage amounts and deductibles) of insurance policies that may be maintained by the Guild Builders from time to time, the solvency or financial status of the Guild Builders from time to time, the nature and amount of any bonds that may be maintained by the Guild Builders from time to time, the performance (or the ability to perform) by the Guild Builders of their contractual obligations (including any contractual obligations of any of the Guild Builders in favor of any Owner or any other party whatsoever), the compliance by the Guild Builders with building codes and other requirements, rules, laws and ordinances of federal, state and local governmental and quasi-governmental bodies and agencies relating to the construction of homes and other activities engaged in by the Guild Builders from time to time, the use of any substance or material, including, without limitation, any stucco or synthetic material by the Guild Builders in connection with the construction of homes, the compliance by any Guild Builder with any licensing requirements imposed by federal, state and local governmental and quasi-governmental bodies and agencies from time to time, including, without limitation, the maintenance

of any required builder's and/or contractor's license, and the failure or alleged failure of any Guild Builder to comply with any industry standard or any other reasonable standard or practice with respect to such builder's work or materials used in the construction of houses and other activities engaged in by such Guild Builder at Baldwin Peak. Furthermore, neither the Architectural Review Committee nor Declarant, nor the officers, directors, members, employees, agents or affiliates of either of them, shall have any responsibility whatsoever for any sum that any Owner or any other party may deposit with a Guild Builder, including, without limitation, any earnest money or other deposit that any Owner may deliver to a Guild Builder. The selection of a Guild Builder by an Owner shall be conclusive evidence that such Owner is independently satisfied with regard to any and all concerns such Owner may have about the Guild Builder's work product and/or qualifications. Owners shall not rely on the advice or representations of the Architectural Review Committee, Declarant or the officers, directors, members, employees, agents or affiliates of either of them in that regard.

Section 9. No Construction Without Payment of Fees and Use of a Guild Builder.

Notwithstanding anything contained in this Article VIII to the contrary, plans and specifications for Improvements to be constructed on a Lot or other portion of the Property shall not be deemed to have been properly submitted unless and until any and all fees required by the Architectural Review Committee to be paid in connection with such Improvements, as provided in Article VI, Section 8 above, shall have been paid to the Architectural Review Committee or Declarant as required. In addition, such plans and specifications shall not be deemed to have been properly submitted unless a copy of a fully signed contract between the Owner of the relevant Lot and a Guild Builder for construction of such Improvements (if required by the Architectural Review Committee), as provided in Section 9 above, shall have been submitted to the Architectural Review Committee.

Section 10. Notices Submittals.

Notices and submittals to the Architectural Review Committee shall be in accordance with the notice provisions set forth from time to time in the Guidelines.

Section 11. Separate Committee for Changes to Existing Improvements.

The Board shall have the right, power and authority, in its sole discretion, to appoint a committee separate and apart from the Architectural Review Committee to review plans and specifications for any and all renovations, changes and additions to existing Improvements located on a Lot or other portion of the Property (herein, the "Architectural Changes Committee"). Should the Board appoint such an Architectural Changes Committee, then the Architectural Review Committee shall relinquish to the Architectural Changes Committee its authority to review plans and specifications for any such changes to existing Improvements, and the Architectural Changes Committee shall be solely responsible for review and approval of the same. The composition of the Architectural Changes Committee shall be determined by the Board in its sole discretion and the procedure for submission, review and approval of plans and specifications to and by the Architectural Changes Committee shall be set forth in the Guidelines. Notwithstanding the foregoing, nothing herein shall be deemed to obligate the Board to appoint an Architectural Changes Committee, and until an Architectural Changes Committee is appointed, the Architectural Review Committee shall be responsible for reviewing and approving or disapproving all plans and specifications for renovations, changes and additions to existing Improvements in accordance with the provisions of this Article VIII and the Guidelines.

Section 12. Limitation of Liability.

No member of the Architectural Review Committee or the Architectural Changes Committee shall be liable for claims, causes of action or damages (except where occasioned by willful misconduct of such member) arising out of services performed pursuant to this Article VIII. Neither the Architectural Review Committee, nor the Architectural Changes Committee (if applicable), nor the members thereof, nor the Association, nor Declarant, nor any officers, directors, members, employees, agents or affiliates of any of them, shall be liable for damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval

of, or the failure to approve or disapprove of, any plans and specifications. The approval of plans and specifications by the Architectural Review Committee or the Architectural Changes Committee (if applicable) shall not be deemed or construed as a representation or warranty of the Architectural Review Committee or the Architectural Changes Committee (as the case may be), Declarant, or any officer, director, member, employee, agent or affiliate of any of them, (i) that Improvements constructed in accordance with such plans and specifications will comply with applicable zoning ordinances, building codes, or other governmental or quasigovernmental laws, ordinances, rules and regulations or (ii) as to the structural soundness, quality, durability, suitability, fitness or proper functioning of Improvements constructed in accordance with such plans and specifications; and any responsibility or liability therefore is hereby disclaimed. Every person who submits plans and specifications, and every Owner, agrees that he will not bring any action or suit against Declarant, the Association, the Architectural Review Committee, the Architectural Changes Committee (if applicable), the Board, or the officers, directors, members, employees, agents or affiliates of any of them, to recover any such damages and hereby releases, demises, and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. Declarant shall be the sole party responsible for the performance of Declarant's obligations under this Declaration, and no other person, firm or entity, including, without limitation, any entity affiliated with Declarant, shall have any obligation or liability for Declarant's obligations under this Declaration.

Section 13. Miscellaneous.

Members of the Architectural Review Committee and, if applicable, the Architectural Changes Committee, in the sole discretion of the party or body appointing such members (i.e., either Declarant or the Board, as the case may be) may be compensated for their services. The Association shall reimburse members of the Architectural Review Committee and the Architectural Changes Committee (if applicable) for reasonable out-of-pocket expenses associated with their activities hereunder. All costs, expenses and attorneys' fees of the Architectural Review Committee and the Architectural Changes Committee (if applicable), including those incurred in connection with the exercise of their enforcement or other powers as provided herein, shall be borne by the Association; provided, however, nothing herein shall be deemed to negate the Association's right to an award of court costs, attorneys' fees and expenses in accordance with Article VIII, Section 5 hereof.

ARTICLE XII - INSURANCE; REPAIR AND RESTORATION; CONDEMNATION

Section 1. Board of Directors.

To the extent such insurance is reasonably available, the Board of Directors shall obtain and maintain at all times insurance of the type and kind and in no less than the amounts set forth below:

(a) Property Insurance. All improvements and all fixtures and personal property included in the Common Areas and Maintenance Areas and all personal property and supplies belonging to the Association shall be insured in an amount equal to the current replacement cost (exclusive of land, foundation, excavation and other normally excluded items) as determined annually by the Board with the assistance of the insurance company providing coverage. The Board shall, at least annually, review the insurance coverage required herein to determine adequacy. Such coverage shall provide protection against loss or damage by fire or other hazards covered by a standard Special Form property policy including endorsements for windstorm and water damage, vandalism and malicious damage. In addition to the provisions and endorsements set forth in Article IX, Section 3 and Section 4, the property insurance described herein shall contain the following provisions:

(1) standard "Agreed Amount" endorsements;

(2) construction code endorsements if the Common Area becomes subject to a construction code provision which would require changes to undamaged portions of any building thereby imposing significant costs in the event of partial destruction of such building by an insured peril;

(3) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Owners and their employees, agents, tenants and invitees; and

(4) a provision that the coverage will not be prejudiced by act or neglect of one or more Owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

(a). The property insurance policy shall not contain (and the insurance shall not be placed with companies whose charters or bylaws contain) provisions whereby: (1) contributions or assessments may be made against the Association or the Owners; (2) loss payments are contingent: upon action by the carrier's directors, policy holders or members; and (3) there are limiting clauses (other than insurance conditions) which could prevent Owners from collecting the proceeds.

(b). Commercial General Liability. The Board shall also be required to provide occurrence form commercial general liability insurance (ISO-1986 or broader) and officer's and director's liability insurance in such limits as the Board may, from time to time, determine to be customary for projects similar in construction, location and use as the Project, covering each member of the Board, the managing agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance, or repair of the Common Areas and Maintenance Areas, or from service on the Board; provided, with a limit of no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner. The Board shall review such limits annually.

(c) Fidelity Coverage. The Board shall also be required to obtain fidelity coverage against dishonest acts on the part of all persons, whether officers, directors, trustees, employees, agents or independent contractors, responsible for handling funds belonging to or administered by the Association. The fidelity insurance policy shall be written in an amount sufficient to provide protection which is in no event less than one and one-half times the Association's estimated annual operating expenses and reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(d) Other. Such other insurance coverages, including flood insurance and worker's compensation, as the Board shall determine from time to time desirable.

Section 2. Premium Expense.

Premiums upon insurance policies purchased by the Board shall be paid by the Board and charged as a common expense to be collected from the Owners pursuant to the terms of this Declaration.

Section 3. Special Endorsements.

The Board shall make diligent efforts to secure insurance policies that will provide for the following:

(a) recognition of any insurance trust agreement entered into by the Association;

(b) coverage that may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the named insured and any insurance trustee; and

(c) coverage that cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board without prior demand in writing that the Board cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association or any Owner.

Section 4. General Guidelines. All insurance policies purchased by the Board shall be with a company or companies licensed to do business in the State of North Carolina and holding a rating of "A VIII" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Association and shall be issued in the name of and provide that all proceeds thereof shall be payable to the Association. Notwithstanding any of the foregoing provisions and requirements relating to insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, who shall have exclusive authority to negotiate losses under any policy providing such insurance.

Section 5. Insurance Proceeds.

Subject to any limitations imposed by any applicable financing documents, the Association shall use the net proceeds of casualty insurance covered by it to repair and/or replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of casualty insurance paid to the Association remaining after satisfactory completion of repair and replacement shall be retained by the Association as part of the general reserve fund for repair and replacement of the Common Area and/or Maintenance Areas.

Section 6. Insufficient Proceeds.

If the insurance proceeds received by the Association are insufficient to reimburse, to repair and/or replace any damage or destruction to person or property, the Board may levy a Special Assessment against the Owners to cover the deficiency.

Section 7. Owner's Personal Property.

Neither the Association nor Declarant shall be liable in any manner for the safekeeping or condition of any personal property belonging to nor used by any Owner or his family, tenants, guests or invitees, located on or used at the Common Areas. Further, neither the Association nor Declarant shall be responsible or liable for any damage or loss to any personal property of any Owner, his family, tenants, guests or invitees located on or used at the Common Areas. Each Owner shall be solely responsible for all personal property and for any damage thereto or loss thereof, and shall be responsible for the purchase of, at such Owner's sole cost and expense, any liability or other insurance for damage to or loss of such property.

Section 8. Obligation to Insure Owners' Property.

By virtue of taking title to a Lot within the Project, each Owner acknowledges that neither the Association nor Declarant has any obligation to provide any insurance for any portion of such Lot or any Dwelling Unit nor other property located thereon.

Section 9. Security.

The Association may, in its sole discretion, but shall not be obligated to, provide certain security and fire protection measures, and maintains or supports certain other activities within the Project designed to make the Project safer than it might otherwise be. Provided, however, should the Association provide, maintain or support any such measures or activities, then neither the Association, Declarant, nor any successor of Declarant shall in any way be considered insurers or guarantors of security or fire protection within the Project, and neither the Association, Declarant nor any successor of Declarant shall be held liable for any loss or damage by reason of failure to provide or take any security or fire protection measures or for the ineffectiveness of any such measures undertaken. Each Owner and Occupant of any Lot and each tenant, guest and invitee thereof acknowledges and understands that neither the Association, Declarant nor any successor of Declarant are insurers, and each such Owner, and Occupant of a Lot and their tenants, guests and invitees hereby assume all risks for loss or damage to persons, property or contents belonging to any such persons.

Section 10. Condemnation.

Whenever all or part of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for and on account of such taking shall be paid to the Association. The Association, acting through the Board, shall have the right to negotiate and litigate the issues with respect to the taking and compensation affecting its interest in the Common Area, without limitation on the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Lot or other portion of the Property, hereby appoints the Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Common Area. All compensation and damages paid to the Association on account of such a taking shall be used to restore the Common Area, provided such restoration is possible, with the excess, if any, to be retained by the Association and applied to future operating expenses by the Board, in its sole discretion. Nothing herein is to prevent Owners whose Lots or other property are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots or other property, or improvements, fixtures or personal property thereon, exclusive of damages relating to the Common Area. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Common Area, Lots or other property without such allocation, the award shall be divided between affected Owners and the Board, as their interests may appear, by the Board in its sole discretion.

ARTICLE XIII – PROPERTY RIGHTS

Section 1. Ownership of Common Areas. Except as otherwise provided herein, Declarant shall convey to the Association the Common Areas to be owned and maintained by the Association or, if said Common Areas are not owned in fee by Declarant but are easement rights, Declarant shall transfer said easement rights to the Association. Any portion of the Property shown as Common Area or by similar designation on a Plat or designated as Common Area in this Declaration or any Supplemental Declaration shall be deemed “common elements” under the North Carolina Planned Community Act whether owned by Declarant or owned by the Association, from such time as it is initially so shown or designated. Declarant reserves the right (but shall not be obligated) to construct within the Common Areas, among other things: (a) uplighting and landscape lighting, other lighting, signage and irrigation facilities, and (b) the Roadways (including, drainage facilities and other improvements). Notwithstanding the recordation of any Plat or any other action by Declarant or the Association, all Common Areas shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public. At such time as Declarant shall convey the Common Areas to the Association, no acceptance or consent by the Association shall be necessary and the recordation of a deed from Declarant to the Association shall be deemed conclusive evidence of the Association’s acceptance of such conveyance of such Common Areas in their: as-is, Where is” condition, and subject to all matters of record, but free and clear of all deeds of trust or other monetary encumbrances. Such conveyance shall take place no later than the expiration of the Period of Declarant Control.

Section 2. Owners’ Rights to Use and Enjoy Common Areas. Each Owner shall have the non-exclusive easement and right to use and enjoy the Common Areas, and such right shall be appurtenant to and conveyed with title to Owner’s Lot, subject to the following:

- (a) the right of the Association and the Board to promulgate and enforce reasonable rules and regulations governing the use of the Common Areas to insure the availability of the right to use the Common Areas to the Owners and the safety of all the Owners within the Common Areas;
- (b) the right of the Association to suspend the voting rights of an Owner in the Association and the right of the Association to suspend the right to use certain or all of the Common Areas by an Owner for any period during which any assessment or charge against said Owner’s Lot remains unpaid for a period of thirty (30) days or longer, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

- (c) the right of the Declarant or the Association to grant or reserve utility, drainage and other easement across the Common Areas;
- (d) any limitation on use of certain facilities on the Common Area established by Declarant in a Supplementary Declaration, as contemplated in Article II, Section 2, above;
- (e) any and all other applicable provisions of this Declaration.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his or her right of enjoyment to the Common Areas to the members of his or her family, his or her guests, invitees, or his or her tenants.

ARTICLE XIV - EASEMENTS AND OTHER RIGHTS

Declarant, in addition to any other easements granted or reserved herein, hereby reserves unto itself, its successors and assigns, and grants to the Association and any other persons or entities hereinafter set forth, the following non-exclusive easements on, upon, over, across, through and under the Property. In addition, Declarant hereby reserves unto itself, its successors and assigns, the right, on behalf of itself and the Association, to grant additional easements on, upon, over, across, through and under the Common Areas and any portion of the Property owned by Declarant as deemed to be in the best interests of and proper for the Project, including, but not limited to, easements in favor of Declarant, the Association, the Owners, and all their family members, guests, invitees and tenants and to various governmental and quasi-governmental authorities and agencies and private concerns for the purposes and uses hereinafter specified.

Section 1. Easements Cross-Easements Common on Common Areas. Declarant, for itself, its designees and the Association, reserves the right to impose upon the Common Areas henceforth and from time to time such easements and cross-easements for ingress and egress, installation, maintenance, construction and repair of utilities and facilities including, but not limited to, electric power, telephone, cable television, master antenna transmission, data transmission, surveillance services, governmental and quasi-governmental purposes, sewer, water, gas, drainage, landscaping, trails and accompanying minor structures, irrigation, lake maintenance, storm water management, lighting, television transmission, garbage and waste removal, emergency services, and the like as it deems to be in the best interests of, and necessary and proper for, the Project or any portion thereof.

Section 2. Use of Common Areas. Subject to any limitation or restriction set forth in this Declaration, Declarant declares that the Common Areas are subject to a perpetual nonexclusive easement in favor of Declarant, the Association and their designees, the Owners and all their family members, guests, invitees and tenants, and appropriate governmental and quasi-governmental agencies to use the Common Areas for all proper and normal purposes including, but not limited to, ingress, egress and access for the furnishing of services and utilities and for such use of the facilities as the same are reasonably intended in accordance with the terms of this Declaration and any Additional Declaration. If ingress or egress to any Lot or other portion of the Property is through any Common Area, any conveyance or encumbrance of such area is subject to this easement.

Section 3. Right-of-way Roadways. Declarant hereby reserves, for the benefit of itself, its agents, employees, lessees, invitees, designees, successors and assigns, and grants to the Association, its agents, employees, tenants, invitees, designees, successors and assigns, and to each Owner of a Lot, their family members, tenants, guests, invitees, successors and assigns, and to each Occupant of a Lot, and to all governmental and quasi-governmental agencies and service entities having jurisdiction over the Property while engaged in their respective functions, a perpetual non-exclusive easement, license, right and privilege of passage and use, both pedestrian and vehicular, over and across the Roadways for the purpose of providing access, ingress and egress to and from, through and between the Property. Declarant further hereby reserves the right and easement to use the Roadways for ingress and egress to and from all portions of the land marked as "Future Phase" on the Plats, whether or not such Future Phases are subjected to this Declaration, as an appurtenance to such Future Phase land. Declarant, until the expiration of the Period of Declarant Control, and the Association thereafter, shall have the right to limit access to the Roadways by operation of the Gates, and each Owner, by acceptance of a deed conveying a Lot, acknowledges and agrees that access to the Property is subject to such reasonable rules and regulations as may be promulgated by Declarant or the Association concerning use of the Gates, issuance of cards or devices to operate the Gates, and related matters. Notwithstanding the foregoing, to the extent required by N.C.G.S. §65-74 and 665-75, Declarant or the Association (as the case may be) shall have the right to give non- Owners access through the Gates and to the

Property for the sole purpose of accessing the Cemetery. Each Owner further acknowledges and agrees that the operation of the Gates does not assure that unauthorized persons will be prevented from gaining access to the Property, and each Owner, by acceptance of a deed conveying a Lot, releases Declarant, any party installing or operating the Gates, and the Association, from any liability for the entry of unauthorized persons onto the Property.

Section 4. Right of Association 4 Declarant to Enter Upon the Common Areas and Maintenance Areas. Declarant hereby reserves for the benefit of itself, its successors in interest and assigns, and grants to the Association and all agents, employees or other designees of Declarant or the Association an easement for ingress, egress and access to enter upon or over the Common Areas and Maintenance Areas for the purposes of inspecting any construction, proposed construction, or Improvements or fulfilling the rights, duties and responsibilities of ownership, administration, maintenance and repair of Declarant or the Association, as appropriate. Such easement includes an easement in favor of the Association and Declarant to enter upon the Common Areas and Maintenance Areas now or hereafter created to use, repair, maintain and replace the same for the purposes for which they are initially designated or for such purposes as they are hereafter redesignated or as Declarant otherwise determines them to be reasonably suited. Notwithstanding the foregoing, nothing contained herein shall be interpreted as imposing any obligation upon the Association or Declarant to maintain, repair, or construct Improvements which an Owner is required to maintain, construct or repair.

Section 5. Easement for Encroachments. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Association, the Owners, their successors and assigns, and to the Occupants of Lots, easements for encroachments, to the extent necessary, in the event any portion of the improvements located on any portion of the Property now or hereafter encroaches upon any of the remaining portions of the Property as a result of minor inaccuracies in survey, construction or reconstruction, or due to settlement or movement. Any easement(s) for encroachment shall include an easement(s) for the maintenance and use of the encroaching Improvements in favor of Declarant, the Association, the Owners and all their designees.

Section 6. Maintenance. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Association, its successors and assigns, the following nonexclusive perpetual easements over certain areas of the Property as hereinafter described for the purposes hereinafter described:

(a) Easements for the purposes of landscaping and maintaining entryways and erecting and maintaining entrance monument(s) for the Project, over, across and under those portions of the Property shown and designated for such purpose on the Plats (herein referred to as the "Entrance Monument Easements"). Declarant and/or the Association shall have the right to landscape and maintain the areas of the Property so designated as entryways to the Project, to erect and maintain entrance monument(s) thereon bearing the name of the Project, and to erect and maintain lighting for such monument(s), plantings, landscaping, irrigation systems and other improvements typically used for entryways.

(b) Easements for the installation, maintenance, repair and removal of landscaping and landscaping amenities, including signage, lighting, monuments and irrigation systems, over, across and under those portions of the Property shown and designated as "Landscape Easements" or by similar designation on the Plats (herein referred to as "Landscape Easements").

All of the above-described areas and items shall herein be referred to as the "Maintenance Areas." The Association shall maintain the Maintenance Areas to a consistent standard of maintenance typical of a first-class development.

Section 7. Utility and Drainage Easements. The Property shall be subject to all easements and rights-of-way for utilities and drainage shown on the Plats, including, but not limited to, those certain easements shown and designated on the Plats as:

- (a) "Utility Easement";
- (b) "Public Storm Drainage Easement";

or by similar designations. Such easements are hereby reserved for the use of Declarant, its successors and assigns, and are hereby established for the use of the Association, its successors and assigns, and include, without limitation,

storm drainage easements of 'variable width, whether or not depicted on a Plat, over the entire area within all ditches along any Roadway.

Additionally, Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Association, its successors and assigns, a non-exclusive easement and right-of-way over all Landscape Easements, for the installation and maintenance of lines, conduits, pipes and other equipment necessary for finishing electric power, gas, telephone service, cable service, data transmission, water, irrigation, and drainage facilities, storm drainage and/or other utilities. Within the above-described easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation of utilities or which may change the direction or flow of drainage channels in the easements. This reservation of easements shall not prohibit the construction of driveways, at locations approved by the Architectural Review Committee, over such easements.

Section 8. Irrigation Easements. Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Association, its successors and assigns, nonexclusive perpetual easements over, across and under those portions of the Property shown and designated as "Irrigation Easement" or by similar designation on the Plats, and over all portions of the Property upon which Declarant has installed irrigation systems, for the installation, maintenance, repair and removal of irrigation systems to service the landscaping to be installed and maintained in the Landscape Easement areas (herein referred to as the "Irrigation Easements"). Within the Irrigation Easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation, repair and maintenance of irrigation systems. This reservation of easements shall not prohibit the construction of driveways, at locations approved by the Architectural Review Committee, over such easements.

Section 9. Declarant's Right to Assign Easements, Maintenance of Easement Areas. Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder. The areas burdened by the easements and rights-of-way reserved by Declarant on each Lot or other portion of the Property pursuant hereto, including any Improvements in such areas, which are not to be maintained by the Association or a public authority or utility, shall be maintained continuously by each Owner of such Lot or other portion of the Property, but no structures, plantings or other material shall be placed or permitted to remain upon such areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion problems. Notwithstanding the above, the Association and/or Declarant shall have the right, but not the obligation, to maintain the landscaping in the easement areas on any Lot.

Section 10. Easement Reserved for Association Declarant. Full rights of access, ingress and egress are hereby reserved by Declarant for itself and the Association at all times over and upon any Lot or other portion of the Property for the exercise of the easement rights described in this Article X and for the carrying out by Declarant or the Association of the rights, functions, duties and obligations of each hereunder; provided, that any such entry by Declarant or the Association upon any Lot or portion of the Property shall be made with the minimum inconvenience to the Owner of such property as is reasonably practical, and any damage caused as a result of the gross negligence of Declarant, the Association or their employees or agents shall be repaired by Declarant or the Association, as the case may be, at the expense of Declarant or the Association, as the case may be. Furthermore, Declarant does hereby reserve for itself and its successors and assigns an easement over all Waterfront Lots for the installation of rip-rap and other materials, and the performance of other work in connection with shoreline stabilization, if and to the extent Declarant elects to perform any such work.

Section 11. Additional Easements. Declarant shall have the right to grant over, under, across and upon any portion of the Property owned by Declarant, and the Board shall have the authority, in its sole discretion, to grant over, under, across and upon the Common Areas, such easements, rights-of-way, licenses and other rights in accordance with or to supplement the provisions of this Declaration or as may otherwise be desirable for the development of the Project, by the execution, without further authorization, of such grants of easement or other instruments as may from time to time be necessary or desirable. Such easements may be for the use and benefit of persons who are not Association Members or Owners. After such time as the members of the Board are no longer appointed by Declarant, the Board shall cooperate with Declarant and execute such grants of easements over the Common Areas as may be desirable to Declarant for the development of the Project and the preservation and enhancement of Declarant's interest therein.

Section 12. No Merger of Easements. The easements hereby established shall not be terminated by merger or otherwise, except upon execution and recordation of an instrument specifically terminating any such easement.

ARTICLE XV – BALDWIN PEAK HOMEOWNERS ASSOCIATION

Section 1. Formation Declarant shall incorporate a nonprofit corporation called the Baldwin Peak Homeowners Association, Inc. (the “Association”) with the duties and powers as set forth in this Declaration.

Section 2. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and shall be governed by the Bylaws attached as Exhibit “___”, hereto. In addition, as long as Declarant owns any part of the Property, Declarant shall be a Member of the Association.

Section 3. Classes of Voting Members. The Association shall have two (2) classes of voting membership:

- (a) Class I. The Class 1 Association Members shall be all Association Members with the exception of Declarant. Class 1 Association Members shall be entitled to one (1) vote for each Lot owned by such Association Member. When more than one Person owns an interest (other than a leasehold or security interest) in any Lot, all such Persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.
- (b) Class II. The Class II Association Member shall be Declarant. The Class II Association member shall be entitled to twenty (20) votes for each Lot owned by the Class II Association Member.

Section 4. Period of Declarant Control. “Period of Declarant Control” means the period of time during which the Declarant shall at all times be entitled to appoint and remove the Association’s Board of Directors and the officers of the Association, and during which the Class I Association Members shall have no right to nominate, elect, or remove, or exercise any vote to nominate, elect, or remove, the Board of Directors, such period of time beginning on the date that the Association is incorporated and ending at such time as Declarant does not own any portion of the Property, or at such earlier time as Declarant terminates such right by execution of a written instrument of termination. Anything to the contrary in this Declaration, by Bylaws, the Articles of Incorporation, or the North Carolina Planned Community Act notwithstanding, if not sooner ended or terminated, the Period of Declarant Control shall end on December 31, 2011.

During the Period of Declarant Control occurs, the Board shall have the sole and exclusive authority to exercise all powers and rights of and to act in all instances on behalf of the Association, and the Members shall have no authority to exercise such powers or rights or to act by exercise of their votes, except as determined by the Board in its sole and absolute discretion, and except as provided with respect to the commencement of judicial or administrative proceedings as provided in Article 18, Section 5, of this Declaration, and those acts that the Planned Community Act or other applicable laws provide may not be undertaken unilaterally by the Board, such as, to the extent required, ratification of the budget as provided in Article 16, Section 3 of this Declaration, borrowing of funds to pay operational costs of the Association as provided in Article xx, Section (x) of the Bylaws and conveying fee simple title to all or any part of the Common Area as provided in Article 13, Section (1) of the Bylaws.

Section 5. Availability of Documents. The Association shall maintain current copies of the Declaration, the Bylaws and other rules concerning the Project as well as its own books, records, and financial statements available for inspection by all Owners, Mortgagees and insurers and guarantors of Mortgages that are secured by Lots, provided the Association shall have no responsibility to distribute such documents. All such documents shall be available upon reasonable notice and during normal business hours, provided the Association shall have the right to charge the requesting party reasonable costs incurred by the Association in complying with such request, including, without limitation, copy charges. In addition, any Mortgagee may, at its own expenses, have an audited statement prepared with respect to the finances of the Association.

Section 6. Management Contracts. The Association is authorized and empowered to engage the services of any person, firm or corporation to act as managing agent of the Association at a compensation level to be established by the Board and to perform all of the powers and duties of the Association. The Association is also authorized and empowered to enter into agreements (and to assume agreements entered into by Declarant) with caretakers, natural resource managers, and activities and program directors to perform certain maintenance functions and perform other services relating to the administration of the Common Area, the Property, and the Association.

Section 7. Maintenance. The Roadways shall be maintained by the Association. Such maintenance shall include repair and reconstruction of the Roadways, when necessary, including, but not limited to the swales, medians, and bridges and associated landscaping and related improvements along and within the Roadways. However, notwithstanding anything to the contrary set forth in this Declaration, each Owner shall maintain all areas within the Roadway right-of-ways between such Owner's Lot boundary adjoining such right-of-way to the edge of the Roadway pavement, to the extent not maintained by the Association, including without limitation mowing grass and keeping ditches and swales free from debris. Maintenance of the Roadways shall conform to the standard of maintenance (if one is ascertainable) which would be required by the North Carolina Department of Transportation or other governmental entity.

The Common Areas and the Maintenance Areas, together with all utilities, easements and amenities located therein and not otherwise maintained by public entities or utilities or any other party as provided herein, shall be maintained by the Association as more particularly described below:

- (a) Maintenance of the entryways to the Project shall include maintenance, repair and reconstruction, when necessary, of the entrance monuments, signage, irrigation, planters and lighting located thereon and providing and paying for landscaping, utility charges for irrigation and lighting of the entrance monuments and signage located thereon.
- (b) Maintenance of the Gate(s) shall include repair, maintenance and replacement, when necessary, of said Gates.
- (c) The swales and medians and associated landscaping and related improvements along and within the Roadways shall be maintained so as to facilitate proper drainage of water through such swales, and providing such landscaping maintenance as the Board deems in its discretion necessary so as to maintain an appearance in keeping with the remainder of the Project.
- (d) The Common Areas and Maintenance Areas, including, without limitation, the Amenity Area, shall be clean and free from debris and maintained in a safe and orderly condition, together with the landscaping thereon (if any), in accordance with the highest standards for first-class residential developments located in the Raleigh, North Carolina metropolitan area, including any removal and replacement of any landscaping, utilities, or improvements located thereon. Notwithstanding the foregoing, the Association's obligation to maintain the Common Area shall not require the Association to seed, sod, mow, or otherwise maintain those Common Areas that are open and unimproved, and such open and unimproved Common Areas may be left in their natural state.
- (e) The Association shall not be responsible for the maintenance of any Lot or any portion of any Lot or the improvements within the boundaries thereof. The Owners of such Lots shall be solely responsible for same.

Section 8. Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of all or a portion of the Common Areas or Maintenance Areas including Roadways, and in order to fund unanticipated expenses of the Association or to acquire equipment or services deemed necessary or desirable by the Board of Directors. Such reserve fund shall be collected and maintained out of the Annual Assessments, as hereinafter defined. Assessments collected as reserves shall not be considered to be advance payments of Annual Assessments.

Section 9. Liability Limitations. Neither Declarant, nor any Association Member, nor the Board, nor any officers, directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Association Member, whether or not such other

Association Member was acting on behalf of the Association or otherwise. Neither Declarant, nor the Association, nor their directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Association or any other person, firm or association making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof. The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

ARTICLE XVI - COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Annual, Supplemental Annual, Special Individual. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any deed or other conveyance document, is deemed to covenant and agrees to pay to the Association Annual Assessments, Supplemental Annual Assessments, Special Assessment, and Special Individual Assessments, (collectively, the "Assessments"), as hereinafter defined, established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be their personal obligation of the Owner, at the time when the assessment fell due, of the Lot against which such assessment or charge is made. Their personal obligation for delinquent assessments or charges shall not pass to the Owner's successors in title unless expressly assumed by the, provided such assessments or charges, together with interest, costs, and reasonable attorneys' fees, shall, as set forth above, be a continuing lien upon the Lot against which such assessments or charges are made.

Section 2. Purpose of Annual Assessments. The assessments to be levied annually by the Association ("Annual Assessments") shall be used as follows:

- (a) to repair, operate, maintain, reconstruct (when necessary) and keep clean and free from debris the Common Areas and the Maintenance Areas and any improvements located thereon, and to maintain the landscaping in accordance with the highest standards for first-class residential developments located in the Raleigh, North Carolina, metropolitan area, including any necessary removal or replacement of landscaping;
- (b) to maintain and repair the Roadways to the standards of the maintenance (if one is ascertainable) for residential streets in the developments similar to the Project prevailing in the Raleigh, North Carolina, metropolitan area;
- (c) to maintain, operate, repair and reconstruct, when necessary, the entryways to the Project, including the entrance monuments, signage, irrigation, planters, landscaping and lighting located thereon;
- (d) to maintain and repair the swales and medians, and landscaping and related improvements along and within the Roadways;
- (e) to pay all costs associated with the operation of any uplighting and landscape lighting initially installed by Declarant, including utility costs;
- (f) to pay all advalorem taxes levied against the Common Areas and any other property owned by the Association;
- (g) to pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws;

- (h) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws;
- (i) to carry out all other purposes and duties of the Association, the Board of Directors and the Architectural Review Committee as stated in the Articles, the Bylaws and in this Declaration;
- (j) to maintain contingency reserves for the purposes set forth in Article 16 hereof in amounts as determined by the Board of Directors;
- (k) to pay all fees, costs, compensation and other charges accruing under any management agreement and operation and management contract entered into by, or assumed by, the Association;
- (l) to pay the salary of and all other costs associated with the employment of any Caretaker, and any other persons who may be employed by the Association;
- (m) to maintain, operate, repair and replace, when necessary, the Gates.

The expenses of the Association for the foregoing are sometimes referred to herein as "common expenses".

Section 3. Payment of Annual Assessments; Due Dates. Each Owner of a Lot shall pay to the Association Annual Assessments as hereinafter set forth.

- (a) Annual Assessments provided for herein shall commence as to all Lots shown on a Plat as of the date of the conveyance of the first Lot by Declarant to an Owner (other than Declarant) of such Lot, or on January 1, 2009, whichever shall later occur. The Annual Assessment for the first year in which a Lot is subject thereto shall be prorated based upon the number of days remaining in the applicable billing period from the date of such conveyance. The Annual Assessment amount for the calendar year beginning January 1, 2009, shall be one thousand five hundred dollars (\$1,500) per Lot. The Annual Assessment amount for each and every year thereafter shall be in an amount as set by the Board of Directors, in accordance with the terms of this Article 16. Annual Assessments shall be due and payable in advance in equal installments on a quarterly basis on January 1, April 1, July 1 and October 1 of each calendar year. The Board of Directors shall prepare an annual budget and fix the amount of the Annual Assessments as to each Lot for any calendar year on or before December 1 of the prior calendar year, and the Association shall send written notice of the amount of the Annual Assessments, as well as the amount of the payment due, to each Owner on or before December 15 of the prior calendar year. To the extent required by North Carolina General Statutes 47F-3-103(c) or other applicable law, such notice shall include notice of a meeting of the Members to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. If such a meeting is required by N.C. General Statutes 47F-3-103(c), or other applicable law, the Board of Directors shall set a date for a meeting of the Members to consider ratification of the budget to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. If such meeting is required as set forth above, there shall be no requirement that a quorum be present at the meeting. The budget will be ratified unless: (a) if such vote is taken during the Period of Declarant Control, at such meeting Members exercising ninety percent (90.0%) of the votes in the Association reject the budget; (b) if such vote is taken after the Period of Declarant Control, at such meeting Members exercising a majority of the votes in the Association reject the budget.
- (b) The failure of the Association to send or of a Member to receive, such notice shall not relieve any Member of the obligation to pay Annual Assessments.
- (c) If the Board of Directors shall, during any calendar year, determine that the important and essential functions of the Association cannot be funded by the Annual Assessment, the Board may, by vote in accordance with the Bylaws, levy a supplemental Annual Assessment

("Supplemental Annual Assessment"), subject to the procedures set forth in Article 16, Section 3 above.

- (d) With respect to any Lot conveyed by Declarant, the purchaser of such Lot shall pay to the Association at closing the amount of the Annual Assessment for the installment period in which the closing occurs on such Lot, prorated based upon the number of days remaining in such installment period. With respect to any Lot conveyed by any Owner other than Declarant, the amount of the Annual Assessment applicable to such Lot for the installment period in which such closing occurs shall be prorated between the buyer and seller thereof as of the date of closing of such conveyance.

Section 4. Special Assessments. In addition to the Annual Assessment authorized above, the Association may levy, in any assessment year, a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) the construction of any Common Area and/or Maintenance Area improvements which are not originally constructed by Declarant or (ii) the reconstruction, repair or replacement of the Common Areas and/or Maintenance Areas, including any improvements located thereon, and including, without limitation, Roadways and Gates. Provided, However, (a) Declarant shall not be obligated to pay any Special Assessments on Lots owned by Declarant except with Declarant's prior written approval, and (b) any Special Assessment must be approved by Declarant (so long as Declarant owns any part of the Property) and by a vote of a majority of the votes appurtenant to the Lots which are then subject to this Declaration.

Section 5. Special Individual Assessments. In addition to the Annual Assessments and Special Assessments authorized above, the Board of Directors shall have the power to levy a special assessment applicable to any particular Owner ("Special Individual Assessment") (i) for the purpose of paying for the cost of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas and/or Maintenance Areas, including, without limitation, Roadways and Gates, and any improvements located thereon, occasioned by any act or omission of such Owner(s), members of such Owner's family or such Owner's agents, guests, employees, tenants or invitees and not the result of ordinary wear and tear; or (ii) for payment of fines, penalties or other charges imposed against any particular Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws or any rules or regulations promulgated by the Association or the Declarant pursuant to this Declaration or the Bylaws. Provided, however, Declarant shall not be obligated to pay any Special Individual Assessment except with Declarant's prior written approval. The due date of any Special Individual Assessment levied pursuant to this Section 5 shall be fixed in the Board of Directors resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Owner(s) at least thirty (30) days prior to the date of Special Individual Assessment is due.

Section 6. Collection Agent. At the option of the Board of Directors, any person or entity designated by the Board of Directors may act as collection agent for any and all assessments imposed by the Association and/or the Board against the Owners.

Section 7. Assessments against Lots Owned by Declarant. Anything to the contrary set forth in this Declaration notwithstanding, Assessments on each Lot owned by Declarant as the Class II Association Member shall be in the reduced amount of ten percent (10%) of the per Lot Assessment amount established by the Association for the Lots owned by Class I Association Members. Furthermore, Declarant shall be entitled to credit against any Assessments on Lots owned by Declarant any and all amounts which Declarant has paid directly for common expenses, or has paid or contributed to the Association for the Association's payment of common expenses.

ARTICLE XVII – GENERAL ASSESSMENT PROVISIONS

Section 1. Certificate Regarding Assessments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 2. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment (or installment thereof) not paid by its due date as set forth herein shall bear interest from such due date at the rate of eighteen percent (18%) per annum or the highest rate then permitted by law, whichever is less. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner (or foreclose the lien against the applicable portion of the Property), and interest, late payment charges, court or collection costs, any fines imposed, and reasonable attorney's fees related to such action or foreclosure shall be added to the amount of such assessment and the lien securing such assessment. Additionally, the Association may accelerate all quarterly installments of the Annual Assessment for the calendar year in which the default occurs. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of his or her property or the Common Areas or otherwise.

Section 3. Subordination of the Lien to Mortgages. The lien of the assessments provided for in Article 16 and in any Article of this Declaration shall be subordinate to the lien of any first Mortgage on a Lot or any mortgage or deed of trust to Turnberry Development Group, LLC. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to a mortgage foreclosure under any first Mortgage on a Lot or any mortgage or deed of trust to Turnberry Development Group, LLC, or any proceeding in lieu thereof, however, shall extinguish the lien (but not the personal obligation of the mortgagor or any prior Owner) of such assessments as to payments which became due on a sale or transfer; provided, however, that the Board of Directors may in its sole discretion determine such unpaid assessments to be an Annual, Special or Special Individual Assessment (as the case may be), as applicable, collectable pro rata from all Owners, including the foreclosure sale purchaser. Such pro rata portions are payable by all Owners. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any first Mortgage on a Lot or any mortgage or deed of trust to Turnberry Development Group, LLC.

Section 4. Uniformity of Assessments. Except as otherwise specifically set forth herein, all Annual Assessments and Special Assessments shall be uniform as to all Lots.

ARTICLE XVIII - GENERAL PROVISIONS

Section 1. Duty of Maintenance. Except for those portions, if any, of a Lot which the Association may elect to maintain or repair hereunder, the Owner of any Lot shall have the duty and responsibility, at such Owner's sole cost and expense, to keep the Lot(s) owned by such Owner, including Improvements thereon and ground and drainage easements or other rights-of-way incident thereto, in compliance with the covenants, conditions, restrictions and development standards contained in this Declaration (to the extent applicable), and in any applicable Additional Declaration, in accordance with the provisions of the Guidelines, and in a well maintained, safe, clean and attractive condition at all times. Such maintenance, as to unimproved and improved Lots, shall include, but shall not be limited to, the following:

- (a) Prompt removal of all litter, trash, refuse and waste;
- (b) Keeping land, including any lawns and shrub beds, well maintained and free of trash, uncut grass and weeds;
- (c) Keeping all sediment resulting from land disturbance or construction confined to the respective Owner's property; and
- (d) Complying with all governmental health and police requirements.

In addition, such maintenance, as to improved Lots, shall include, but shall not be limited to, the following:

- (1) Lawn mowing on a regular basis;

- (2) Tree and shrub pruning;
- (3) Watering by means of a lawn sprinkler system and/or hand watering as needed;
- (4) Keeping exterior lighting and mechanical facilities in working order;
- (5) Keeping lawn and garden areas alive;
- (6) Removing and replacing any dead plant material;
- (7) Maintenance of natural areas and landscaping in accordance with the Guidelines;
- (8) Keeping parking areas and driveways in good repair; Repainting of ' Improvements;

and

(9) Repair of damage and deterioration to Improvements, it being understood and agreed that if any Improvements are damaged or destroyed by fire or other casualty, then within six (6) months following the date such damage or destruction occurs, the Owner of the Lot on which such Improvements are situated, must repair and restore such damaged Improvements (in accordance with plans and specifications approved by the Architectural Review Committee and otherwise in accordance with the terms and provisions of this Declaration and of each Additional Declaration applicable thereto) or remove such damaged Improvements and restore the Lot to its condition existing prior to the construction of such Improvements. In addition to the foregoing, each Owner must maintain, in accordance with the terms hereof, any Common Area and/or Maintenance Area located within the boundaries of its Lot, to the extent such Common Area and/or Maintenance Area is not maintained by the Association as provided in this Declaration. Notwithstanding a n y h g contained herein to the contrary, the above-described maintenance responsibilities as to any Lot shall commence only upon a Plat showing such Lot being recorded in the Office of the Register of Deeds of Franklin County and upon the conveyance of such Lot by Declarant. If an Owner of any Lot has failed in any of the duties or responsibilities of such Owner as set forth herein, then the Board and Declarant, either jointly or severally, may give such Owner written notice of such failure and such Owner must within ten (10) days after receiving such notice (which notice shall be deemed to have been received upon deposit in an official depository of the United States mail, addressed to the party to whom it is intended to be delivered, and sent by certified mail, return receipt requested), perform the care and maintenance required or otherwise perform the duties and responsibilities of such Owner as described in herein. Provided, however, this cure period shall be extended for a time not to exceed sixty (60) days so long as Owner shall have commenced to cure such nonconformity and shall diligently prosecute the same. Should any such Owner fail to fulfill this duty and responsibility within such period, then the Association, acting through its authorized agent or agents, or Declarant (so long as it owns any portion of the Property), acting through its authorized agent or agents, either jointly or severally, shall have the right and power to enter onto the premises of such Owner and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any Person. The Owner of the Lot on which such work is performed shall be liable for the cost of such work, together with interest on the amounts expended by the Association or Declarant in performing such work computed at the highest lawful rate as shall be permitted by law from the date(s) such amounts are expended until repayment to the Association or Declarant, as the case may be, and for all costs and expenses incurred in seeking the compliance of such Owner with his duties and responsibilities hereunder, and such Owner shall reimburse the Association or Declarant, as the case may be, on demand for such costs and expenses (including interest as above provided). If such Owner shall fail to reimburse the Association or Declarant, as the case may be, within thirty (30) days after the mailing to such Owner of a statement for such costs and expenses, then, without limitation of any other rights of the Association or Declarant, the Association may impose a Special Individual Assessment against such Owner.

Section 2. Duration. This Declaration and the controls, covenants, restrictions and standards set forth herein, as the same may be amended in accordance with Article 18, Section 3, below, shall run with and bind the Property and any Owner, and shall inure to the benefit of every Owner of a Lot in the Property and every Owner of any other portion of the Property, including Declarant, and their respective heirs, successors, and assigns, for a

term of thirty (30) years beginning on the date this Declaration is recorded in the Office of the Register of Deeds of Franklin County, North Carolina. At the end of such thirty (30) year period, the easements, covenants, conditions and restrictions set forth herein shall automatically be extended for successive period(s) of ten (10) additional years, unless prior to the expiration of a respective period, by two-thirds (2/3) vote of the Association Members, there shall be adopted a resolution to terminate these covenants and restrictions. Owners may vote in person or by proxy at a meeting duly called for such purpose at which a quorum is present, written notice of which shall have been given to all Owners at least thirty (30) days in advance of the date of such meeting, which notice shall set forth the purpose of such meeting. The foregoing shall not limit the right of Declarant or the Association to amend and/or supersede, in whole or in part, the terms and provisions hereof at any time, as such right in favor of Declarant and the Association are described in Section 3 below.

Section 3. Amendment. Except as otherwise expressly provided herein and subject to the limitations hereinafter contained, this Declaration may be amended or modified at any time by a vote of no less than sixty-seven percent (67%) of all votes entitled to be cast by the Association Members, which vote is taken at a duly held meeting of the Association Members at which a quorum is present, all in accordance with the Bylaws. Provided, however, if sixty-seven percent (67%) of all votes entitled to be cast by the Association Members cannot be obtained at such a meeting, then this Declaration may be amended by obtaining the vote of sixty-seven percent (67%) of all votes present at a duly held meeting of the Association Members at which a quorum is present and by, within ninety (90) days of such vote, obtaining written consent to such amendment by Association Members holding a sufficient number of votes to comprise, along with such voting Association Members, a total of sixty-seven percent (67%) of all votes entitled to be cast by Association Members. Further provided, that any amendment or modification to this Declaration must be consented to by Declarant so long as Declarant is the Owner of any Lot or other portion of the Property, which consent Declarant may grant or withhold in its sole discretion. Any amendment or modification upon which the vote of Association Members is required pursuant to this Section 3 shall become effective when an instrument executed by the Association Members voting for such amendment or modification is filed of record in the Office of the Register of Deeds of Chatham County, North Carolina; provided, however, such an amendment or modification, in lieu of being executed by the Association Members voting for such amendment or modification, may contain a certification of the Secretary of the Association stating that the amendment or modification has been voted on and approved by the requisite number of votes of the Association Members, as provided in this Section 3. Notwithstanding the terms of the immediately preceding paragraph of this Article 18, Section 3, for so long as Declarant owns any portion of the Property, Declarant, without obtaining the approval of any Association Member or any Owner or Owners other than Declarant, shall have the unilateral right, in its sole and absolute discretion, to make any amendments or modifications hereto which Declarant deems necessary or desirable, including, without limitation, amendments or modifications to any procedural, administrative or substantive provision of this Declaration, consistent with the uniform scheme of development established by this Declaration. Furthermore, at any time during the term of this Declaration, Declarant, without obtaining the approval of any Association Member or any Owner or Owners other than Declarant, shall have the unilateral right, in its sole and absolute discretion, to make any amendments or modifications hereto (i) which are correctional in nature and do not involve a change which materially adversely affects the rights, duties or obligations specified herein, (ii) which are necessary to cause this Declaration or any Additional Declaration to comply with the requirements of FHA, VA, the Federal National Mortgage Association or other governmental agency, and (iii) to change the designation of any Lot (including Waterfront Lots) then owned by Declarant. Any amendment to this Declaration by Declarant need only be executed by Declarant, and shall be effective when so executed and recorded in the Office of the Register of Deeds of Franklin County, North Carolina.

Section 4. Release of Property. For a period of ten (10) years after the recordation of this Declaration, Declarant shall have the right, in its sole and absolute discretion, without the consent of the Association, any Association Member or any other Owner, to release any portion of the Property then owned by Declarant from the terms of this Declaration by recording a release in the Office of the Register of Deeds of Franklin County, North Carolina. After the recordation of such release, the portion of the Property described therein shall not be subject to the terms of this Declaration.

Section 5. Enforcement; Litigation. The Association, Declarant or any Owner shall have the right, but not the obligation, on its own behalf or on behalf of others, to enforce the provisions of this Declaration or any Additional Declaration. Enforcement of the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens for which provision is made in this Declaration shall be by a proceeding at law or in equity (or otherwise, as provided in this Declaration) against any person or persons violating or attempting to violate any such control, covenant, condition, restriction, easement, development guideline, charge or lien, either to restrain

such violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association, Declarant or any Owner to enforce any such control, covenant, condition, restriction, easement, development guideline, charge or lien shall in no event be deemed a waiver of the right to do so thereafter or of any other or future violation of any thereof. Except as otherwise expressly provided in this Declaration, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of no less than sixty-seven percent (67.0%) of all votes entitled to be cast by the Class I Association Members, which vote is taken at a duly held meeting of the Association Members at which a quorum is present, all in accordance with the Bylaws. The immediately preceding sentence shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration, (b) the imposition and collection of assessments, charges or other fees hereunder, (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 to the Project. 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.

Section 6. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses or phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that the remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 7. Notice. Except as otherwise set forth herein expressly, whenever written notice to an Owner or Association Member (including Declarant) is required hereunder, such notice shall be given by the mailing of same, postage prepaid, to the address of such Owner or Association Member appearing on the records of Declarant or the Association. If notice is given in such manner, such notice shall be conclusively deemed to have been given by placing same in the United States mail properly addressed, with postage prepaid, whether received by the addressee or not. Declarant's address as of the date of recording of this Declaration is 205 Park York Lane, Cary, North Carolina 27519.

Section 8. Titles. The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

Section 9. Exemption. No Owner or other party may exempt himself from the coverage hereof or obligations imposed hereby by non-use of such Owner's Lot(s) or other property located within the Project or the Common Area.

Section 10. Changes to Plans for the Project. Nothing contained herein shall be deemed to incorporate, by reference or otherwise, any plans or proposals promulgated by Declarant with respect to the development of the Project, and Declarant, subject to the covenants, conditions and restrictions contained in this Declaration and any Additional Declaration, reserves the right to change any plans for the Project at any time and from time to time as Declarant may determine to be necessary based upon Declarant's continuing research and design program and/or market conditions, and any plans for the Project shall not bind Declarant or its successors and assigns to adhere to such plans in the development of the Property or any part thereof. In addition, Declarant reserves the right to change, from time to time, the uses and densities that exist on any portion(s) of the Property owned by Declarant, subject to the covenants, conditions and restrictions contained in this Declaration and any Additional Declaration.

ARTICLE XIX – DECLARANT'S RIGHTS

The Declarant retains the right to have on-site promotional sale signs until the last Lot is sold. This includes an information box, as well as a site plan of the community. The location for promotional information shall be selected by the Declarant.

The Declarant reserves the right to add additional land to the Property and to submit said additional land to these Covenants, which it shall do by recording an amendment to these Covenants for said purpose. The Declarant reserves the right to amend these Covenants to add, delete, alter or change these Covenants for newly added Property consistent with the stated purposes of these Covenants.

The Declarant reserves the right to subject the Property to an easement to Progress Energy for the installation of street lighting, which requires a continuing monthly payment to Progress Energy by each residential customer and/or the Association.

ARTICLE XX - BALDWIN PEAK PURCHASE OFFER AND CONTRACT ADDENDUM

The Buyers acknowledge receipt of the Covenants and Restrictions for Baldwin Peak Subdivision. More specifically, the Buyers acknowledge that they have been made aware that: (i) they must use only an approved builder to construct any buildings in the subdivision, and must select their builder from the list of approved builders supplied from time-to-time by the Seller/Developer; (ii) they must commence construction of their residence within three (3) years of the closing date and complete construction within fifteen (15) months of commencement; (iii) in the event the Buyers do not commence or complete construction in a timely manner, then the Seller has the option to repurchase the Lot at the original purchase price or, in the case of construction already commenced, to complete the same and assess the Lot and Lot owner for the cost of completion of same (including a reasonable profit); and (iv) the foregoing shall survive the closing of the Lot and shall be incorporated into an agreement to be signed at closing by the Buyer and Seller and recorded with the warranty deed to be provided by the Seller.

ARTICLE XXI – PLANNED COMMUNITY ACT

These Covenants and the Property shall be subject to the provisions of the North Carolina Planned Community Act, Chapter 47F, of the North Carolina General Statutes (the “Act”). In the event of any inconsistency between these Covenants and the Act, then the provisions of the Act shall prevail as to such inconsistent provision(s) only, and the remaining provisions of these Covenants shall continue in full force and effect.

IN WITNESS THEREOF, the Declarant has cause this document to be executed in it name by it President on the ____ day of _____, 2007

Turnberry Development Group, LLC

By: _____
Martin G. Baum, President

NORTH CAROLINA
COUNTY OF CHATHAM

I, _____, a Notary Public in and for Chatham County, North Carolina, do hereby certify that Martin G. Baum personally came before me this day and acknowledged that he is the President of Turnberry Development Group, LLC and that he, as President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp/seal this ____ day of _____, 2007.

Notary Public

My commission expires: _____

NORTH CAROLINA, CHATHAM COUNTY

The foregoing Certificate(s) of _____, Notary Public is certified to be correct. This instrument was presented for registration at _____ o'clock _____, on _____, 2007 and recorded in Book ____ Page ____.

REBA G. THOMAS
REGISTER OF DEEDS FOR CHATHAM COUNTY

By _____
Register of Deeds