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EVERETT GASKINS HANCOCK
220 FAYETTEVILLE STREET
SUITE 300
RALEIGH NC 27601



FOR REGISTRATION REGISTER OF DEED
TAMMY THEUSCH BERGLEY
NEW HANOVER COUNTY, NC
2014 APR 29 02:12:00 PM
BK:5810 PG:2712-2739 FEE:\$74.00

STATE OF NORTH CAROLINA
NEW HANOVER COUNTY

INSTRUMENT # 2014010339

REVISED AND RESTATED DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
MAGNOLIA TRACE TOWNHOMES

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

Mail to: Larry D. McBenett, Everett Gaskins Hancock LLP
P.O. Box 911, Raleigh, NC 27602

THIS REVISED AND RESTATED DECLARATION, made on this the 11 day of April, 2014 by the undersigned owner (the "Revised Declaration") in accordance with Article XIII, Section 4 of the Declaration of Covenants, Conditions and Restrictions Magnolia Trace Townhomes recorded July 25, 2007 in Book 5211, Page 1730, New Hanover County Registry. Article XIII, Section 4 of the Declaration authorizes amendments to the Declaration by a vote of not less than sixty-seven percent (67%) of the Owners of Townhomes in Magnolia Trace, as those terms are defined in the Declaration. South College Associates, LLC, as successor Declarant executes this Revised Declaration to confirm its consent to this amendment of the Declaration, in accordance with Article XIII, Section 4 of the Declaration.

RECITALS:

The undersigned Owner owns all of the real property described on Exhibit A except Lot 45, Magnolia Trace Townhomes, Phase 1, Map Book 52, Pages 392-395, New Hanover County Registry. The undersigned Owner owns eighty-seven and one-half percent (87.5 %) of the Townhomes and has voted at a Member meeting held on April 11, 2014 to amend the Declaration extensively and restate it as set forth herein in order to:

- a. Ensure the attractiveness of the townhome community and prevent any future impairment thereof;
- b. Preserve, protect and enhance the values and amenities of all properties within the townhome community;
- c. Improve the residents' enjoyment of specific rights, privileges and easements in Common Elements;

- d. Provide for the maintenance and upkeep of the exterior of the Townhome Units and the Common Elements;
- e. Confirm the authority and powers of the homeowners' association;
- f. Confirm the membership of the Owners in the homeowners' association;
- g. Conform the Declaration to the North Carolina Planned Community Act, as updated and amended; and
- h. Correlate the Declaration and the Bylaws of the homeowners' association.

The Original Declarant incorporated and dissolved the Magnolia Trace Homeowners Association, Inc. The successor Declarant incorporated a new nonprofit association utilizing the same name in order to carry out the duties and responsibilities provided to the homeowners association under the Declaration, which are clarified in this Revised Declaration.

It is the desire and intention of the Owner to impose on that Property described on Exhibit "A" restrictions, conditions, easements, covenants and agreements to continue a general plan or scheme of improvement for the benefit of the Property and the future owners thereof. The Property will be developed as a planned community and as such will be subject to the North Carolina Planned Community Act, set forth as Chapter 47F of the North Carolina General Statutes.

NOW, THEREFORE, the Owners hereby declare that all of the Property described on Exhibit "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the Property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Articles" shall mean the Articles of Incorporation of the Association as filed May 21, 2013 with the North Carolina Secretary of State as the same may be amended from time to time.

Section 2 "Association" shall mean and refer to Magnolia Trace Homeowners Association, Inc., a North Carolina non-profit corporation incorporated on May 21, 2013, its successors and assigns.

Section 3. "Builder" shall mean any Person that acquires a Lot for the purpose of constructing a dwelling thereon and selling it.

Section 4 "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

Section 5. "Bylaws" shall mean the document for governance of the Association as adopted initially by the Board on June 3, 2013 and as amended by the Members

Section 6 "Common Elements" shall mean all real property and any improvements constructed thereon, if any, owned by the Association for the common use and enjoyment of the Owners or Members of the Association, as may be designated on any subdivision map of the Property or by the Association. Unless modified by the Declarant, the Common Elements to be conveyed to the Association includes all of the Property other than Lots and streets dedicated to public use. Declarant may recombine any portion of the Common Elements with a Lot pursuant to the terms of Article VIII, Section 16 herein upon approval by the appropriate governmental authority.

Section 7. "Common Expenses" shall mean and include, as applicable:

- (a) All sums lawfully assessed by the Association against its Members;
- (b) Expenses for maintenance of the Common Elements and improvements thereon;
- (c) Expenses of administration, maintenance, repair, or replacement of the Common Elements including, but not limited to, expenses of maintenance of any signs, lighting, irrigation and landscaping located on Common Elements and at all entrances to the Magnolia Trace Townhomes Subdivision as shown on the recorded plat or plats; and the expenses of maintenance of any improvements or amenities located on any of the Common Elements within Magnolia Trace Townhomes Subdivision;
- (d) Expenses associated with security for the Property;
- (e) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws,
- (f) Hazard, liability, or such other insurance premiums as the Association may deem appropriate to purchase or as the Declaration or the Bylaws may require,
- (g) Ad valorem taxes and public assessment charges lawfully levied against the Common Elements;
- (h) The expense of the maintenance of private ingress and egress, drainage and utility easements and facilities located therein, which cross the Common Elements and serve either the Property or both the Property and lands adjacent thereto;
- (i) The expense of the maintenance of all easements as well as landscaping and improvements thereon conveyed to the Association; and

(j) Any other expenses determined by the Board or approved by the Members to be common expenses of the Association.

Section 8. "Declarant" shall mean and refer to South College Associates, LLC, a North Carolina limited liability company; the successors and assigns of South College Associates, LLC to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, subject to such terms and conditions as Declarant may impose; or any owner of the Property or Lots or remainder of them (i) resulting from the sale of the Property, Lots or the remainder thereof at foreclosure of a deed of trust granted by Declarant or any successor to the rights of Declarant, or (ii) resulting from a transfer by Declarant or any successor to the rights of Declarant in lieu of foreclosure.

Section 9. "Limited Common Elements" shall mean those portions of the Common Elements allocated for the exclusive use of one or more but not all of the Lot Owners.

Section 10. "Lot" shall mean and refer to any plot or tract of land shown upon any recorded subdivision map of the Property, as such map or maps may be from time to time be amended or modified, designated for single-family residential use.

Section 11. "Member" shall mean and refer to every person or entity who holds membership in the Association. "Members" shall mean more than one Member or the collective membership of the Association, in accordance with the context.

Section 12. "Notice" required to be given herein shall be in writing and mailed by U.S. mail, postage prepaid, first class to the address of any Member on the records of the Association or shall be hand delivered to the Member.

Section 13. "Original Declarant" shall mean Magnolia Trace Townhomes, LLC, formerly a North Carolina limited liability, identified erroneously in the Declaration as Magnolia Trace, LLC.

Section 14. "Owner" or "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot, but excluding those having such interest merely as security for the performance of an obligation.

Section 15. "Person" shall mean and refer to any individual, corporation, partnership, limited liability company, association, trustee or other legal entity.

Section 16. "Property" shall mean and refer to that certain real property described on Exhibit "A" attached hereto, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 17. "Townhome" shall mean any single family residential dwelling constructed on a Lot

ARTICLE II

PROPERTY RIGHTS

Section 1. Conveyance of Lots. Each Owner shall be conveyed a fee simple title only to the actual ground upon which the Townhome is situated, together with one-half of the party wall separating two Townhomes.

Section 2. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area together with and including the right of access, ingress and egress on and over the Common Area, all of which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association, after notice and an opportunity to be heard, to impose fines or to suspend the voting rights and the right to use the recreational or other Common Element facilities, if any, by an Owner (i) for any period during which any assessment against his Lot remains unpaid for more than sixty (60) days; and (ii) for any period during which an Owner is in violation of this Declaration, the Bylaws or the published rules and regulations of the Association;

(b) the right of the Association to dedicate, sell, lease or transfer all or any part of the Common Elements, or any interest therein, to any public agency, authority, or utility, or to any other Person for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication, sale, lease or transfer shall be effective unless (i) it has been approved by at least eighty percent (80%) of the votes entitled to be cast by the Members; (ii) an instrument of dedication, sale, lease, or transfer properly executed by the Association has been recorded; and (iii) the dedication, sale, lease or transfer is in compliance with applicable governmental regulations. On such instrument the Secretary of the Association shall certify that the dedication, sale, lease or transfer has been approved by at least eighty percent (80%) of the votes entitled to be cast by Members. That certificate may be relied upon by any third party without inquiry and shall be conclusive as to any grantee, its successors or assigns. Notwithstanding the foregoing, (i) conveyances for general utility purposes, as specified herein, may be made by the Association without consent of the Members, (ii) the Declarant may recombine any portion of the Common Elements with a Lot pursuant to the terms of Article VIII, Section 16 herein in accordance with applicable governmental regulations and upon approval by the appropriate governmental authority; and (iii) any conveyance of a Limited Common Element or any subjection of a Limited Common Element to a security interest must be approved by all of the Owners to whose Lots the Limited Common Element is allocated.

(c) the rights of the Association to grant utility, cable television, drainage, access and other easements for the purposes set forth in Article IX.

(d) the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Elements and facilities and in aid thereof to mortgage the Common Elements, provided that any security interest granted in a Limited Common Element must be approved by all of the Owners to whose Lots the Limited Common Elements are allocated. The rights of such mortgagee in the Common Elements shall be subordinate to the rights of the Members hereunder;

(e) the right of the Association to impose rules and regulations for the use and enjoyment of the Common Elements and improvements thereon, which rules and regulations may further restrict the use of the Common Elements, and

(f) the right of Owners of Lots on additional lands annexed to the Property to the easements of enjoyment and rights of ingress, egress and access, as specified above, to the initial Property and all lands included in subsequent phases of the subdivision.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Elements to the members of his family and his tenants, but may not delegate or assign responsibility for his obligations under this Declaration or the Bylaws to others

Section 3. Title to the Common Elements. While reserving the right to build and own facilities on the Common Elements and to charge reasonable fees for use of said facilities, the Declarant hereby covenants for itself, and its assigns, that it will convey fee simple title to the Common Elements located within the Property to the Association, free and clear of all encumbrances and liens, except for encumbrances of utility, governmental service, access, storm drainage and other similar service or utility easements. The Association shall be deemed to accept such Common Elements for ownership and maintenance as necessary.

Section 4. Stormwater Retention. The North Carolina Department of Environment and Natural Resources has required construction of a stormwater retention pond for the benefit of the Property. The Association shall maintain the stormwater retention pond and distribution system on the Property in accordance with the standards and regulations adopted by the North Carolina Department of Environment and Natural Resources. The Owners shall comply with requirements of the Permit, as described in Article VIII, Section 21

ARTICLE III

MEMBERSHIP, VOTING RIGHTS AND MANAGEMENT

Section 1. Membership. Every record Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment.

Section 2. Classes. The Association shall have two classes of voting membership.

Class A Class A Members shall be all Owners with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one Person holds an interest in any Lot, all such persons shall be Members; however, the vote for such Lot shall be exercised as they among themselves determine, or as set forth in the Bylaws, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting is prohibited. In the event that two or more Lots are recombined to form one Lot, the Owner of the new Lot shall only be entitled to one vote for the new Lot. In the event that one Lot is subdivided to form two or more Lots, each Owner shall be entitled to one vote per new Lot.

Class B The Class B Member shall be the Declarant. Declarant shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership at the earlier of the following:

(a) when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership, however, the Class B membership shall be reinstated if thereafter, and before the time stated in subparagraph (b) below, additions are made to the Property sufficient to give the Class B membership a total number of votes to exceed those of the Class A membership; or,

(b) December 31, 2027.

Section 3. Suspension of Vote. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to the Association's rules and regulations, the Bylaws or Article II, Section 2(a) of this Declaration.

Section 4 Management. The management and affairs of the Association shall be governed by the Articles, the Bylaws and this Declaration.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant, and agree to pay (a) to the Association: (i) annual assessments or charges for Common Expenses, (ii) special assessments for extraordinary maintenance; for the purchase, construction, reconstruction, replacement or repair of improvements upon Common elements, for repair and maintenance of the wastewater collection system; and for attorneys' fees and costs of litigation; and (iii) annual or special assessments levied against specific Lots for Common Expenses (A) associated with maintenance, repair or replacement of Limited Common Elements or (B) that benefit fewer than all of the Lots, and (b) to the appropriate governmental taxing

authority, a pro rata share of assessments for public improvements to the Common Elements and public roads if the Association shall default in payment thereof. The annual and special assessments, together with interest, late charges, costs and reasonable attorneys' fees for collection, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, late charges, costs and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to successors in title unless expressly assumed by them.

The Association shall also have the authority through the Board of Directors to establish, fix and levy a special assessment on any Lot to secure the liability of the Owner thereof to the Association arising from breach by such Owner of any of the provisions of this Declaration, which breach shall require the expenditure of time and money or both by the Association for repair or remedy.

Each Owner covenants for himself, his heirs, successors and assigns, to pay each assessment levied by the Association on the Lot described in such conveyance to him within ten (10) days of the due date as established by the Board, and further covenants that if said assessment shall not be paid within thirty (30) days of the due date, the payment of such assessment shall be in default and the amount thereof shall become a lien upon said Owner's Lot as provided herein and shall continue to be such lien until fully paid.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the payment of Common Expenses, and, in particular, but not limited to, for the acquisition, improvement and maintenance of Common Elements, amenities and facilities thereon; for the use and enjoyment of the Common Elements; snow removal on Common Elements; the cost of labor, equipment, materials, management and supervision; the payment of taxes and public assessments assessed against the Common Elements; providing for security to the Property; exterior maintenance of Townhomes, maintenance of Lots in accordance with Section 12 of this Article, the procurement and maintenance of insurance; the employment of counsel, accountants and other professionals for the Association; and such other needs as may arise.

Section 3 Amount of Annual Assessment

(a) Initial Annual Assessment. After adoption of this Revised Declaration, the Board of Directors shall establish an initial assessment. In determining the initial and subsequent annual assessments, the Board shall consider all current costs and expenses of the Association, accrued debts, anticipated liabilities and reserves for future needs.

(b) Annual Assessment Increases. After the initial annual assessment, the Board of Directors may increase the annual assessment up to twelve percent (12%) above the prior year's annual assessment without a vote of the membership. The annual assessment may be increased by more than twelve percent (12%) above the prior year's

annual assessment by an affirmative vote of sixty-seven percent (67%) of Members who are voting in person or by proxy at a duly called meeting.

(c) Declarant Loans. Until such time as Declarant shall no longer control the Board, Declarant may loan to the Association funds to cover the expenses not otherwise covered by the assessment hereunder.

Section 4 Authorization of Special Assessments. The Board of Directors may authorize a special assessment and the terms of its payment, provided that any such assessment in excess of twice the then annual assessment must have the assent of a majority of the votes of the Members who are voting in person or by proxy at a duly called meeting

Section 5 Replacement Reserve Out of the Common Expenses assessment, the Board shall create and maintain a reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Elements.

Section 6 Uniform Rate of Assessment Except as provided in Sections 11 and 12, both annual and special assessments must be fixed at a uniform rate for all Lots and shall be collected on an annual basis or other periodic basis established by the Board.

Section 7 Annual Assessments The annual assessments provided for herein shall commence as to each Lot:

- (i) That is owner-occupied when the initial assessment is approved by the Board of Directors;
- (ii) At the time of recording a deed from the Declarant to a party other than a Builder,
- (iii) At the time that a Builder conveys a Lot; or
- (iv) At the time a Builder leases a Townhome on the Lot.

Once annual assessments commence as to a Lot, the Lot Owner shall pay the pro-rata amount of the full annual assessment from the date of the annual assessment commences on any Lot until the first day of the first calendar year following the commencement or until the end of such period as the Association chooses to collect the assessments. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge if it deems appropriate, furnish a certificate signed by an officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of issuance.

Section 8. Initial Working Capital. In addition to the annual assessments to be charged and paid hereunder, each Owner who purchases a Lot from Declarant or a Builder that contains a Townhome shall pay to the Association a sum equal to two (2) months assessment on that Lot as additional working capital of the Association. These amounts need not be segregated but may be commingled with regular assessment funds

Section 9 Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be delinquent and in default, and (i) shall be subject to a late charge not to exceed the greater of twenty dollars (\$20.00) per month or 10% of any assessment installment unpaid, and (ii) shall bear interest at a rate established by the Board not to exceed eighteen percent (18%) per year

Such assessment shall constitute a lien against the Lot which it was levied from and after the time of recording a claim of lien in the Office of the Clerk of Superior Court in Wake County in the manner provided therefore by Article 2 of Chapter 44A of the North Carolina General Statutes. The lien shall describe the Lot encumbered thereby, and shall state the name of the record owner, the amount due and date when due. The claim of lien shall be recordable any time after thirty (30) days after the due date of the assessment or any installment thereof. The lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claim of lien shall include all assessments which are due and payable when the claim of lien is recorded, plus interest, costs, late charges, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claim of lien shall be signed by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record

No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Elements or abandonment of his Lot. The Association may bring an action at law against the Owner personally obligated to pay the same plus interest, costs, late payment charges and reasonable attorneys' fees, or if it remains unpaid for ninety (90) days or more, may foreclose the lien against the Lot pursuant to Article 2A of Chapter 45 or pursuant to Article 29A of Chapter 1 of the North Carolina General Statutes, as authorized by Section 47F-3-116 of the General Statutes. The Association may not foreclose its lien under power of sale if the debt secured by it consists solely of fines, interest or attorneys' fees incurred solely associated with collection of fines

Section 10. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any institutional first mortgage and ad valorem taxes on said Lot. Sale or transfer of any Lot shall not affect the assessment lien, except that the sale or transfer of any Lot pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but shall not abate the personal obligation of the prior Owner. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11 Damage to Common Elements. If a Lot Owner is legally responsible for damage to any Common Elements or Limited Common Elements or improvements thereon, the Association may cause repairs to be made, recover damages from the responsible Owner, and treat the liability of the Owner as an assessment enforceable as provided herein, all in accordance with the provisions of North Carolina General Statute 47F-3-107.

Section 12. Assessments on Specific Lots. In addition to the authorization in Section 11 of this Article, the Association may levy annual or special assessments against specific Lots for (i) expenses incurred to maintain or repair Limited Common Elements; (ii) expenses that benefit fewer than all of the Lots; and (iii) expenses incurred to maintain or repair Lots or the exterior of Townhomes which is the responsibility of an Owner but which the Owner has neglected.

Section 13. Exempt Property. Any portion of the Property dedicated to and accepted by a local public authority and any portion of the Property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

MAINTENANCE

Section 1. Association Maintenance. In addition to maintenance of the Common Elements, the Association shall provide exterior maintenance upon each Townhome, which is subject to assessment hereunder, as follows: paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces and other exterior improvements. Such exterior maintenance shall not include glass surfaces and HVAC components. Each Owner shall be required to maintain his own glass surfaces, doors, windows, window screens, door and window frames, rear decks, roof skylights, and HVAC units. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot and Limited Common Element at all reasonable times to perform maintenance as provided in this Article. In the event that the need for maintenance, repair or replacement is caused through the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance, replacement or repairs incurred by the Association shall be added to and become part of the assessment to which such Lot is subject.

Section 2 Owner's Maintenance. Each Owner shall maintain, repair and replace at his expense, all interior portions of the improvements in this Townhome which shall need repair. Further, each Owner shall repair, maintain and replace, at his own expense when necessary, the glass surfaces, doors, windows, window screens, door and window frames, rear decks, roof skylights, landscaping inside a courtyard, and heating and air conditioning systems servicing his dwelling, whether located in his Townhome or in the Common Elements adjacent to same.

Section 3. Association Reimbursement If any Owner fails to perform any of the foregoing maintenance responsibilities, then the Association may give such Owner written notice of the failure and such Owner must, within ten (10) days after such notice is given by the Association, perform the required maintenance. If any such Owner fails to perform the required maintenance within the allotted time period, then the Association, acting through its authorized agent or agents, shall have the right and power, but not the obligation, to enter such Owner's Lot and perform such maintenance without any liability to any Person for damages for wrongful entry or trespass. Such Owner shall be liable to the Association for the expenses incurred by the Association in performing the required maintenance and shall reimburse the Association for such expenses within thirty (30) days after the Association mails or delivers to such Owner an invoice therefor. If the Owner fails to reimburse the Association as required, the Association shall have the same rights and remedies for collection of the amount as provided in Article IV, Section 9 for the collection of assessments.

Section 4 Party Walls. Each wall which is built as a part of the original construction of the homes upon the Property and placed on the dividing line between the Townhomes shall constitute a party wall. The general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omission shall apply thereto. The costs of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owner thereafter makes use of the wall, he shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE VI

ARCHITECTURAL CONTROL

In order to maintain an attractive residential neighborhood and to protect property values, no site preparation or initial construction, erection or installation of any improvements, shall be commenced, erected, placed, altered or maintained upon any Lot, until the plans and specifications showing the nature, kind, shape, height, materials, exterior colors, siding, location and elevations of the proposed improvements, landscaping or plantings shall have been submitted to, and approved in writing as to harmony of external design by an Architectural Committee. Until the initial construction plans on the last Lot sold by the Declarant are approved, the Architectural Committee shall be the Declarant or a Committee of three people appointed by the Declarant. After such date, the Architectural Committee shall be composed of no fewer than three (3) persons and no more than seven (7) persons, and shall be appointed by the Board. In the event the Architectural Committee fails to act on a submission made by any Lot Owner within sixty (60) days after said plans and specifications have been received by the Committee, approval will be deemed to have been granted. Any plans and specifications that

contain inaccurate or missing data or information when submitted shall not be deemed to be approved notwithstanding the aforesaid 60 day deadline or any prior approval by the Committee. Upon request, the Association, on behalf of the Architectural Committee, shall provide any Owner with a letter stating that any such work, plans and specifications, landscaping or plantings have been approved, and the letter may be relied upon by third parties.

Approval, conditional approval or disapproval by the Architectural Committee of such plans, location or specifications may be based upon any grounds, including purely aesthetic and environmental, which in the sole discretion of the Architectural Committee, it shall deem sufficient. The Architectural Committee may adopt architectural guidelines to set forth standards for architectural review. Neither the Association, Board nor the Architectural Committee shall be responsible for any defects in the plans and specifications submitted to it or in any structure erected or improvements made on any Lot.

The Board and the Architectural Committee or their appointed agents shall have the right, at their election, but shall not be so required, to enter upon any of the Lots during site preparation or construction, erection or installation of improvements to inspect the work being undertaken and to determine that such work is being performed in conformity with the approved plans and specifications.

The Architectural Committee shall have the power to grant and may allow variances of and adjustments of any guidelines it adopts in order to overcome practical difficulties and prevent unnecessary hardships in application of the guidelines, provided, however, that variances or adjustments are done in conformity with the intent and purposes hereof; and, provided also, that in every instance such variance or adjustment will not be materially detrimental or injurious to other Lots.

In the event of the grant of any variance in the restrictions established herein, the Declarant for so long as the Declarant serves as or has the authority to appoint members to the Architectural Committee, and thereafter the Association on behalf of the Architectural Committee shall execute a document attesting to such grant and the specific nature thereof in form suitable for recording by the Lot Owner in the office of the New Hanover County Register of Deeds. Such document shall be prepared at the cost of the Lot Owner and shall be binding upon the Declarant, the Association, their successors and assigns, and other Lot Owners and may be relied upon by third parties to evidence the variance approval. Any purchaser of a Lot or institution financing a Lot may rely on the foregoing statement.

The Declarant for so long as the Declarant has the authority to appoint members of the Architectural Committee and thereafter the Association may seek a temporary restraining order and a permanent injunction if a Lot Owner builds or attempts to build improvements on a Lot that do not conform with plans and specifications approved by the Architectural Committee. Such permanent injunction may include an order to dismantle and remove non-conforming improvements. The Lot Owner shall be liable for the Declarant's or Association's attorneys' fees and court costs if the latter obtain a court order that determines that improvements constructed by an Owner do not conform to plans and specifications submitted by said Owner to

the Architectural Committee. Such attorneys' fees and court costs shall be lien upon the Lot on which the non-conforming improvements were built and shall be enforceable in the manner provided herein for assessments

ARTICLE VII

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. If within ten (10) years of the recordation of this Revised Declaration, the Declarant or a successor of Declarant should develop additional land which Declarant or a successor of Declarant owns or may hereafter acquire, which land is contiguous to the boundaries of the Property, such additional land may be subjected to this Declaration and annexed by the Declarant or Declarant's successor without the consent of Members. In doing so, Declarant may file and record such amendments to this Declaration as are necessary without the consent of the Members in order to subject such additional lands to the terms of this Declaration and the jurisdiction of the Association

Section 2 Except as provided in Section 1 of this Article VII, annexation of additional property shall require the assent of sixty-seven percent (67%) of the votes entitled to be cast by the Members, present in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting setting forth the purposes of the meeting. Notice and quorum requirements shall be as provided in the Bylaws.

Section 3 Annexation of additional lands shall be accomplished by recording in the office of the Wake County Register of Deeds a Declaration of Annexation duly executed by the Declarant, if the Declarant has the right to annex pursuant to Section 1 above, or by the Association if pursuant to Section 2, describing the lands annexed and incorporating the provisions of this Declaration by reference. The additional lands shall be deemed annexed to the Property on the date of recordation of the Declaration of Annexation. In the case of an annexation by the Declarant, no action or consent on the part of the Association or any other person or entity shall be necessary to accomplish the annexation except any local governmental consent if required by its ordinances

Section 4. Subsequent to recordation of the Declaration of Annexation by the Declarant, the Declarant shall deliver to the Association one or more deeds conveying any Common Elements within the lands annexed as such Common Elements are developed. By recordation of any such deed by the Declarant, the Association is deemed to accept such Common Elements for ownership and maintenance as necessary.

Section 5. Declarant may include in any Declaration of Annexation of additional property hereafter made by Declarant any additional covenants and restrictions applicable to the annexed land that are not inconsistent with and which do not diminish the covenants and restrictions set forth herein. The addition of property authorized under this Article VII may increase the cumulative maximum number of Lots authorized in the Property, and, therefore,

may alter the relative potential voting strength of the Members of the Association.

Section 6. To facilitate annexation of additional lands, Declarant may extend the streets in the Property to connect with the annexed land.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Elements. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

Section 2. Use of Property No portion of the Property (except for a temporary office of the Declarant or a model used by a builder) shall be used except for single-family residential purposes and for purposes incidental or accessory thereto

No trade, business, occupation or profession of any kind shall be conducted upon any Lot or part thereof, except as may be approved by the Board of Directors on a case-by-case basis after petition by an Owner. Any such approved business must be conducted entirely within the confines of the house of an Owner and must not create, among other things, a nuisance to the neighbors, excessive noise, traffic, odors or unpleasant appearances. The Board may condition its approval to minimize impacts on neighbors. The Board shall not approve any signs identifying such trade, business occupation or profession. Once permission is granted by the Board of Directors for such a business, the Board of Directors automatically retains the right to terminate approval of such business for violation of the above conditions or any other conditions stated in the Board's initial approval. The Owner shall terminate such business within thirty (30) days after receipt of notice from the Board. Additionally, a non-residential use of a Lot may require approval by a local governmental authority.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Property, nor shall anything be done which may be, or may become, a nuisance or annoyance to the neighborhood

Section 4. Animals. No animals, birds, livestock, poultry or exotic species of any kind shall be kept or maintained on any Lot or in any dwelling except that up to three (3) dogs, cats, pet birds or other household pets may be kept or maintained; provided that they live indoors, are not kept or maintained for commercial purposes, are controlled in accordance with applicable governmental ordinances, and are not a nuisance to other Owners. The Board of Directors may require a bark control collar for any dog should its barking become a nuisance. No pit bulls, Doberman Pinschers or Rotweilers are allowed

Section 5. Insurance. Nothing shall be kept, and no activity shall be conducted, on the Property which will increase the rate of insurance applicable to residential use for the Property or any Lots. No Owner shall do or keep anything, nor cause or allow anything to be done or kept, on his Lot or on the Common Elements which will result in the cancellation of insurance on any portion of the Property or Lots therein, or which will be in violation of any law, ordinance or regulation. No waste shall be committed on any portion of the Common Elements

Section 6. Offensive Behavior No immoral, improper, offensive, or unlawful use shall be made of the Property or any part thereof. All laws, orders, rules, regulations, ordinances or requirements of any governmental agency having jurisdiction thereof relating to any Lot or any portion of the Property shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain such portion of the Property.

Section 7. Signs No Lot Owner shall display, or cause, or allow to be displayed, to public view any sign, placard, poster, billboard or identifying name or number upon any Lot or any portion of the Common Elements, except as allowed by Section 8 of this Article, by the Association pursuant to its Bylaws or regulations, or as authorized or required by local governmental authority. Nonetheless, the Declarant and Owners may place "For Sale" or "For Rent" signs on Lots that they own. During the development of the Property and the initial marketing of Lots, the Declarant may maintain a sales office and may erect and display such signs as the Declarant deems appropriate whether on Lots or in Common Elements as aids to such development and marketing. Such permitted signs shall be placed six feet from the road curb. No signs shall be nailed to trees.

Section 8. Political Signs. No more than three (3) political signs may be posted inside or outside a building on a Lot at one time so that they are visible from any street abutting the Lot. A political sign may be placed on a Lot no earlier than 45 days before an election and no later than 7 days after an election. A political sign may be no larger than 24 inches wide by 24 inches tall. For purposes of this Section a political sign means a sign that attempts to influence the outcome of an election, including a candidate or an issue on an election ballot. Notwithstanding the preceding, if the City of Wilmington or New Hanover County enact ordinances that regulate the number or size of political signs less restrictively, then the municipal or county ordinance shall preempt the herein provisions as to numbers and dimensions of political signs.

Section 9. Fences, Walls and Hedges. No fence, wall, hedge or other mass planting shall be erected or permitted on any Lot, except as approved by the Architectural Committee pursuant to Article VI.

Section 10. Alterations No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Elements except at the direction or with the express written consent of the Association.

Section 11. Common Elements Use. The Common Elements shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and

occupancy of the Property, subject to any rules or regulations that may be adopted by the Association pursuant to its Bylaws.

Section 12. Parking Rules and regulations adopted under Section 1 of this Article shall provide for reserved parking spaces for Owners in immediate proximity to their Lot(s). No boats, trailers, campers, motor homes, recreational vehicles, trucks larger than pickup trucks, tractors or inoperative motor vehicles shall be parked on any Lot, on the Common Elements, or on any right of way of any roads or streets within the Property by any Lot Owner, its family members, tenants or invitees. Notwithstanding the preceding sentence, the following are permitted. moving vans, delivery and maintenance vehicles and contractor's trucks and vehicles during the construction or renovation of any dwelling, garage or accessory building

Section 13 Religious and Holiday Displays. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Lot(s) of the kinds normally displayed in residences located in residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions regulating displays which are visible from outside the Lot

Section 14 Window Coverings All drapes, curtains or other similar materials hung in any window, or in any manner so as to be visible from the outside of any building erected on any Lot, shall be of a white or neutral background or material, unless the Board of Directors approves another color.

Section 15. Garbage, Recycling and Yard Waste. Owners shall comply with methods of garbage disposal, recycling and yard waste pickup prescribed by public health, municipal or county authorities. Owners shall screen garbage, recycling and yard waste containers so that they are not visible from streets or other Lot(s).

Section 16. Subdividing No Lot shall be subdivided or its boundary lines changed except in conformance with governmental regulations with the prior written consent of the Declarant during the period of Declarant control of the Association and thereafter by the Board. However, the Declarant hereby expressly reserves unto itself and to any successor to which Declarant makes a specific assignment of this right, the right to replat any two (2) or more Lots and/or Common Elements (so long as replatting of the Common Elements conforms with applicable governmental regulations and upon approval by the appropriate governmental authority) shown on the plat of any subdivision of the Property in order to create one or more modified Lots; to recombine one or more Lots and/or Common Elements to create a larger Lot; to eliminate from this Declaration Lots that are not otherwise buildable or Lots and/or Common Areas that are needed for access to any area of the Property or are needed for use as private roads or access areas, and to take such steps as are reasonably necessary to make such replatted Lots suitable and fit as building sites, access area or roadway

Section 17. Delivery Receptacle. No mail box, paper box or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar material shall be erected or located on any Lot. Mailboxes will be provided at a central mailbox station on the Property.

Section 18. Antennae. Exterior radio and television antennae, aerials, disks and dishes for reception of commercial broadcasts shall not be permitted on any Lot without permission of the Architectural Committee as to design, appearance and location

Section 19. Firearms; Hunting Prohibited. There shall be no discharging of firearms, guns or pistols of any kind. No hunting of any type shall be carried on or conducted on the Property.

Section 20. Drying Areas. Clothes lines or drying yards shall not be located upon any Lot without the prior written consent of the Architectural Committee.

Section 21. Stormwater Regulations. The Declarant and each Owner shall comply with all stormwater runoff and other governmental regulations as required by State Stormwater Management Permit #SW 8060725 (the "Permit") issued by the North Carolina Environmental Management Commission on October 13, 2006. It states the maximum number of square feet of the Property which may be covered by structures or impervious materials (impervious materials include asphalt, gravel, concrete, bricks, stone, slate or similar material but do not include wood decking or the water surface of swimming pools). Swales shall not be filled in, piped, or altered except as necessary to provide driveway crossing. Built-upon areas in excess of the permitted amount require a state stormwater management permit modification prior to construction. All permitted runoff from future development shall be directed into the permitted stormwater control system. These connections to the stormwater control system shall be performed in a manner that maintains the integrity and performance of the system as permitted.

The Original Declarant constructed all stormwater management facilities required to be located upon the Property to the standards required by the Permit. Declarant or Declarant's successor shall transfer the Permit and responsibilities under the Permit applicable to the Association and the Association shall accept such transfer of the Permit and responsibilities under the Permit.

Section 22. Independent Covenants Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement, and in the event any one or more of said covenants or restrictions shall, for any reason, be held to be invalid or unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect.

ARTICLE IX

EASEMENTS

Section 1. Access and Utility Easements. All of the Property, including Lots and Common Elements, shall be subject to such easements for driveways, walkways, parking areas, water lines, sewer lines, storm drainage, gas lines, telephone, electric power line, cable television and other public or private utilities as have been granted by the Declarant or by prior owners of

the Property prior to subjecting the Property to this Declaration. The Declarant reserves the right to grant such easements for access and utilities including, but not limited to an easement for vehicular and pedestrian ingress and egress from two parcels owned by Declarant and shown as a 15 37 acre tract and a 6 97 tract on Map Book 54, Page 171, New Hanover County Registry across the Property to U.S. Highway 421. The Association shall have the power and authority to grant and establish upon, over, under and across the Common Elements conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Property without approval of the membership as provided in this Declaration.

Section 2. Easement for the Benefit of Governmental Authorities. An easement is hereby established for the benefit of any governmental authority having jurisdiction over the Property, or other governmental agency, over all Common Elements for the setting, removing and reading of water meters (which shall be separate for each Lot), maintaining and replacing water, sewage and drainage facilities, for police protection, fire fighting and garbage collection and the rendering of such other services as are appropriate and necessary for the use and enjoyment of the Property. In no case shall the governmental authority or other responsible agency be responsible for failing to provide any emergency or regular fire, police, or other public service to the Property or to any of its occupants when such failure is due to the lack of access to such area due to inadequate design or construction, blocking of access routes, or any other factor within the control of the Declarant, the Association, the Owners or occupants.

Section 3. Water and Sewer Easement. The Association shall have the right and easement to maintain all sewer and water lines located on the Lot(s), including the right to go into Townhomes and disturb the structure and floors thereof in order to maintain those lines located within or under said units.

Section 4. Structural Support and Attachments. Every Townhome which contributes to the support of an abutting Townhome shall be burdened with an easement of support for the benefit of such abutting Townhome. Further, all attachments to the exterior walls of a Townhome which are a part thereof but which protrude beyond the delineated plans and specifications, shall be deemed to be included within said delineated boundaries of said Townhome. There is hereby reserved an easement to permit the construction of and continued existence of any protruding attachment.

Section 5. Recorded Easements. There are hereby reserved easements as shown on the recorded map or maps of the subdivision. In the event of a conflict in the width of any easement reserved herein or on the recorded map, the wider easement shall prevail.

Section 6. Drainage Easement. In addition to the foregoing reserved specific easements, the Declarant so long as it controls the Association, and thereafter the Association, may cut and create drains and drainage ways above ground and underground for the purpose of facilitating the removal of surface water whenever such action may appear to be necessary in order to maintain reasonable standards of health, safety and appearance along, over or across any Lot.

Section 7 **Maintenance Easement** The Association, and the Declarant during the period of Declarant control of the Association, shall have an easement on all Lots for the purpose of performing remedial maintenance pursuant to Article V, Section 3.

Section 8 **Emergencies**. Every Lot shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot that endangers any building or any portion of the Common Elements.

Section 9 **Priority of Easements**. Each of the easements in this Article shall be deemed to be established upon the recordation of this Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Lots and the Common Elements, as the case may be, superior to all other encumbrances which may hereafter be applied against or in favor of the Property or any portion thereof.

ARTICLE X

INSURANCE

Section 1. **Insurance to be Maintained by the Association.** The following insurance coverage shall be maintained in full force and effect by the Association:

(a) Public liability insurance in such amounts and in such forms as shall be required by law, which shall contain cross-liability endorsements to cover liability of the Owners as a group to an individual Owner,

(b) Property insurance that meets the requirements of North Carolina General Statute Section 47F-3-113(a) and (c), or any successor statute; such insurance shall cover improvements to Common Elements and Townhomes except for heating and air conditioning units as well as alterations and modifications to Townhomes made by the Owners

(c) Such other insurance coverage as it may determine to be desirable and necessary;

(d) Fidelity bonds for those officers or employees having control over Association funds; and

(e) Other insurance required by law

Section 2. **Premiums.** Premiums for insurance policies purchased by the Association shall be paid by the Association and charged to Owners as an assessment under Article IV.

Section 3. **Insurance Deductible.** In the event of a loss or damage to the Common Elements which is covered by any insurance maintained by the Association, the deductible shall

be paid as a Common Expense. In the event of a loss or damage to any part of a Townhome which a Unit Owner(s) is obligated to maintain, repair or replace which is covered by any insurance maintained by the Association, the deductible shall be paid by the Unit Owner(s) affected. Whenever a loss or damage occurs which may be covered by any insurance maintained by the Association to the Common Elements and a Townhome or multiple Townhomes, the deductible shall be paid on a pro rata basis, based on the amount of the covered loss or damage received by the Unit Owner(s) and the Association as they are affected.

Section 4 Insurance Beneficiaries. All such insurance policies shall be purchased by the Association for the benefit of the Association and the Owners.

ARTICLE XI

CONDEMNATION

Section 1. Partial Taking Without Direct Effect on Townhome. If part of the Property shall be taken or condemned by any authority having the power of eminent domain such that no Townhome is taken, all compensation and damages for and on account of the taking of the Common Elements, exclusive of compensation for consequential damages to certain affected Townhomes, shall be paid to the Board of Directors of the Association in trust for all Owners and their mortgagees according to the loss or damages to their respective interest in such Common Elements. The Association, acting through the Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the Common Elements, without limitation on the right of the Owners to represent their own interests. Such proceeds shall be used to restore the Common Elements with the excess, if any, paid to the Owners, pro-rata. Nothing herein is to prevent Owners whose Lot(s) are specifically affected by the taking or condition from joining in the condemnation proceedings and petitioning on their behalf for consequential damages relating to loss of value of the affected Lot or improvements thereon. In the event that the condemnation award does not allocate consequential damages to specific Owners, but its terms include an award for reduction in value of Townhomes without such allocation, the award shall be divided between affected Owners and the Board of Directors of the Association as their interest may appear.

Section 2. Partial or Total Taking Directly Affecting Townhomes. If part or all of the Property shall be taken or condemned by any authority having the power of eminent domain such that any Townhome or a part thereof (including specific easements assigned to any Townhome) is taken, the Association shall have the right to act on behalf of the Owners with respect to Common Area as provided in Section 1 of this Article and the proceeds shall be payable as outlined therein. The Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Townhomes. All compensation and damages for and on account of the taking of any one or more of the Townhomes or improvements therein shall be paid to the Owners of the affected Townhomes and their mortgagees, as their interest may appear.

Section 3 **Notice to Mortgagee.** A notice of any eminent domain or condemnation proceeding shall be sent to holders of all first mortgages on record with the Association.

ARTICLE XII

RIGHTS OF INSTITUTIONAL LENDERS

Section 1 **Rights Reserved to Institutional Lenders** "Institutional Lender" shall mean and refer to any bank, savings and loan association, savings bank, credit union, insurance company, U S. Department of Veterans Affairs, Federal Housing Authority, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation and other reputable mortgage lender, and guarantor and insurer of such first mortgages. So long as any Institutional Lender shall hold any mortgage upon any Lot, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights

(a) To be furnished with at least one copy of the annual financial statement and report of the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such financial statement and report to be furnished by April 15 of each year for the prior calendar year.

(b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to this Declaration, the Articles or Bylaws, which notice shall state the nature of the amendment

being proposed, and to be given permission to designate a representative to attend all such meetings.

(c) To be given written notice of default in the payment of assessments by any Owner of a Lot encumbered by a mortgage held by the Institutional Lender, such notice to be sent to the place which the Institutional Lender designates in writing to the Association.

(d) To inspect the books, records and organizational documents of the Association during normal business hours, and to obtain copies thereof.

(e) To be given notice by the Association of any substantial damage to any part of the Common Elements.

(f) To be given notice by the Association if any portion of the Common Elements is subject to any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.

Whenever any Institutional Lender, guarantor or insurer desires the benefits of the provisions of this section, such Lender shall serve a written request of such fact upon the Association by registered mail or certified mail addressed to the Association and sent to the address of its registered agent or to the address of any management company retained by the Association identifying the Lot(s) upon which any such Institutional Lender holds any mortgage or mortgages, or identifying any Lot(s) owned by it, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it. Such request shall designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect

Section 3. General Amendments. The covenants and restrictions of this Revised Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Revised Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated. Except as provided in Section 4, this Revised Declaration may be amended after its recordation by an instrument signed by not less than sixty-seven percent (67%) of the votes entitled to be cast by the Lot Owners. This Revised Declaration may be terminated by an instrument signed by not less than eighty percent (80%) of the votes entitled to be cast by the Lot Owners

Section 4. Amendments Without Membership Approval. This Revised Declaration may be amended by the Declarant or the Board, as the case may be, without consent of the Members as follows

(a) The Declarant may amend this Revised Declaration for any reason for a period of one year from the date of recordation of this Revised Declaration.

(b) The Declarant, so long as it shall retain control of the Association, shall have the right to amend this Revised Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the

requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale of such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of the Property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, U.S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

(c) The Declarant, for so long as it shall retain control of the Association, and thereafter the Board of Directors, may amend this Revised Declaration as shall be necessary to qualify the Association or the Common Elements for tax-exempt status.

(d) The Declarant for so long as it has control of the Association may amend this Revised Declaration to include any platting change of the Property as permitted herein or to make amendments correcting minor typographical or clerical errors.

Section 5. Governmental Authority Amendments. No amendment which would change or delete any provision herein required by any governmental authority shall become effective until submitted to and approved by that authority; provided, however, if that authority fails to approve or disapprove such amendment within thirty (30) days after the same has been submitted to it, such approval shall not be required and this covenant shall be deemed to have been fully complied with.

Section 6. Recordation. No amendment shall be effective until recorded in the office of the New Hanover County Register of Deeds.

Section 7. Wastewater Collection System. The original Declaration provided for special assessments to defray the cost of a wastewater collection system, which was described in Exhibit C to the original Declaration. The Cape Fear Public Utility Authority now provides water and sewer service to the Property, so wastewater collection is no longer a responsibility of the Declarant or the Association.

Section 8. Special Declarant Rights. During the period that the Declarant or its successor is a Class B Member, Declarant shall have the special declarant rights as defined in Section 47F-1-103 of the North Carolina General Statutes, which is part of the North Carolina Planned Community Act.

IN WITNESS WHEREOF, the undersigned Owner has executed this instrument by authority duly given, this 11 day of April, 2014.

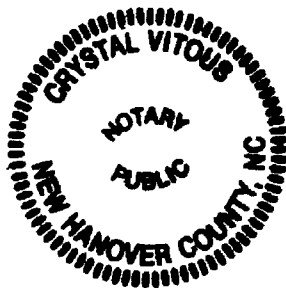
South College Associates, LLC
a North Carolina limited liability company

By. *Rob O. Everett Jr*
Robinson O. Everett, Jr, Manager

STATE OF NORTH CAROLINA
COUNTY OF ~~WAKE~~ NEW HANOVER

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Robinson O Everett, Jr., Manager.

Date 4/11/14



[Signature]

Name: Crystal Vitous
Notary Public, type or print name

My commission expires: Jan 2, 2016

South College Associates, LLC has executed this Revised Declaration in its capacity as Declarant to indicate its approval of these amendments to the Declaration, in accordance with Article XIII, Section 4 of the Declaration

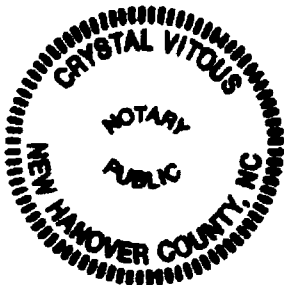
South College Associates, LLC
a North Carolina limited liability company

By. Robinson O. Everett
Robinson O Everett, Jr., Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE NEW HANOVER

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Robinson O. Everett, Jr., Manager

Date: 4/11/14



[Signature]

Name: Crystal Vitous
Notary Public, type or print name

My commission expires Jan 2, 2016

EXHIBIT A

BEING all of a 6.417 tract shown on a plat entitled "Magnolia Trace Recombination Plat," prepared by Miles O. McCall, III, PLS, dated 3-19-07 and recorded in Map Book 51, Page 179, New Hanover County Registry, and as further shown on a plat entitled "Phase I Magnolia Trace Townhomes, Recombination Plat Lots 25-50," prepared by Miles O. McCall, III, PLS, dated 4-10-08 and recorded in Map Book 52, Pages 392-395, New Hanover County Registry.



TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS, NEW HANOVER
216 NORTH SECOND STREET

WILMINGTON, NC 28401

Filed For Registration: 04/29/2014 02 12.00 PM

Book: RE 5810 Page 2712-2739

Document No.: 2014010339

28 PGS \$74.00

Recorder: JOHNSON, CAROLYN

State of North Carolina, County of New Hanover

PLEASE RETAIN YELLOW TRAILER PAGE WITH ORIGINAL DOCUMENT.

2014010339

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