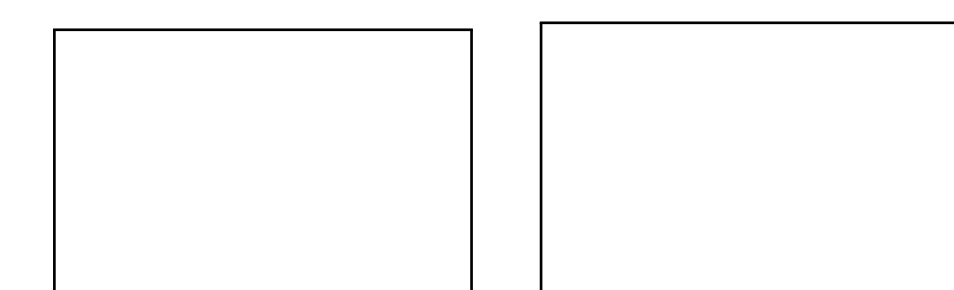


BK 4854 PG 2336 - 2365 (30) DOC# 20137253  
This Document eRecorded: 01/17/2025 12:58:00 PM  
Fee: \$86.00 DocType: DECL Tax: \$0.00  
Pender County, North Carolina  
Sharon Lear Willoughby, Register of Deeds

**DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
KINGBIRD**



**DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
KINGBIRD**

THIS DECLARATION is made on the date hereinafter set forth by **Cornerstone Venture Partners, Inc.**, a North Carolina corporation, hereinafter referred to as "Declarant" and by **DJM-NC, LLC**, a North Carolina limited liability company ("DJM"), for the limited purpose of consenting to this Declaration and subjecting, certain real property it owns, as described in Deed Book 4817, Page 1302, of the Office of the Register of Deeds of Pender County to the terms, conditions, and covenants contained in said Declaration.

**WITNESSETH:**

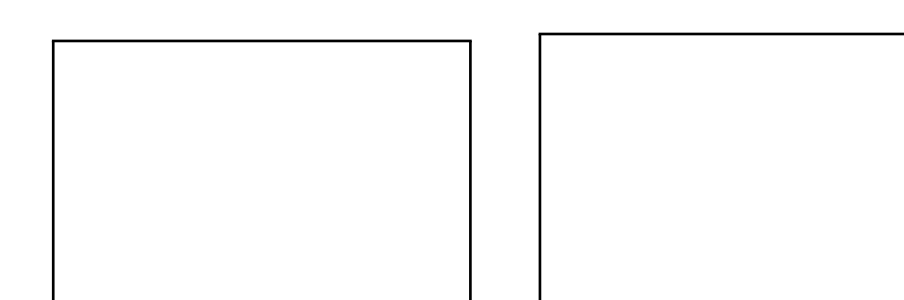
WHEREAS, Declarant is the owner of certain property in the County of Pender, State of North Carolina, known as **KINGBIRD** (referred to herein as "Kingbird") which is more particularly described in Schedule "A-1," attached hereto and incorporated herein by this reference.

WHEREAS, it is the intent of the Declarant hereby to cause the above-described property to be subjected to this Declaration of Covenants, Conditions and Restrictions.

NOW, THEREFORE, Declarant hereby declares that all of the property described above 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, such real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

**SECTION 1. Additional Property.** "Additional Property" shall mean and refer to the shall mean and refer to any lands, in addition to the above described Properties, annexed to and made a part of Kingbird, whether such lands are now owned or hereafter acquired by Declarant or others, and whether developed by Declarant or others and located within two (2) miles of any portion of the Properties.



**SECTION 2. “Amenity Facilities”** shall mean the pond, shelter, bathroom, putting green or any other amenity to the extent constructed or installed by Declarant or Association on Lot 22 as shown on the Plat or any other property designated as Common Elements by the Declarant or Association.

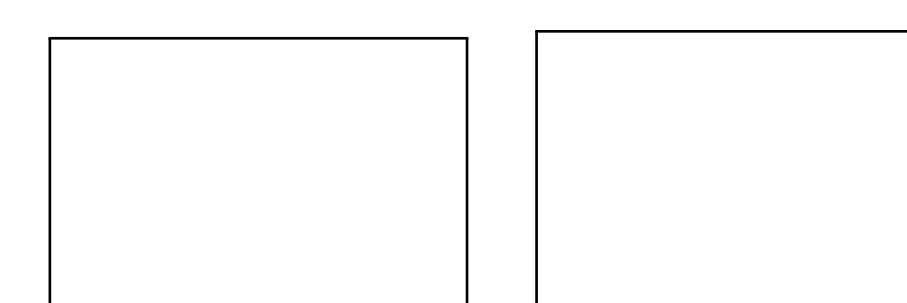
**SECTION 3. Appropriate Local Governmental Authority.** “Appropriate Local Governmental Authority” shall mean and refer to Pender County or other appropriate local governmental authority having jurisdiction over the Properties.

**SECTION 4. Association.** “Association” shall mean and refer to Kingbird Property Owners Association, Inc., its successors and assigns.

**SECTION 5. Common Elements or Common Area.** “Common Elements” or “Common Area” shall mean the Amenity Facilities, Entrance Features and all real property owned or leased by or to the Association or established or granted herein for the benefit of the Association (whether owned in fee or by way of license or easement). The Common Elements to be owned by, or established for the benefit of, the Association at the time of the conveyance of the first Lot, is described as follows:

Being all of Lot 22, and all of the land designated for access and utility easements, consisting of a central 60-foot wide access easement, with a 20-foot utility easements running parallel on both sides for a total width of the easement, including both the access and utility easements, of 100 feet, as shown on the plat entitled “Exempt Subdivision Plat for Cornerstone Venture Partners, Inc. and DJM-NC, LLC recorded in Map Book 76, Page 31 in the Office of the Register of Deeds, Pender County, North Carolina (the “Plat”).

Declarant reserves the right, in its sole discretion, to convey or cause to be conveyed to the Association from time to time and without the consent of the Association or its Members, additional property to the Association, which property may include any portion of the Properties, including any Additional Property annexed by Declarant pursuant to Article X, Section 4 hereof. The Association shall accept any such conveyance of property together with any local, state or federal governmental permits relating to such property, including, without limitation, any stormwater, erosion control or wetlands permits, and thereafter such property shall be held and maintained by the Association as Common Elements. Declarant may construct or cause to be constructed the Amenity Facilities, Entrance Features and other facilities on any such Common Elements. Other improvements, which may include, but shall not be limited to, mailbox kiosks, roadways, signage, drainage features, ditches, swales, ponds or erosion control devices, including but not limited to those intended for retention or detention, may be located on any such Common Elements. Declarant does contemplate the construction of the Amenity Facility and related recreational improvements or amenities within the Common Elements. The Association shall be required to promptly repair and replace any portion of the Common Elements for which the Association is required to maintain casualty insurance pursuant to the Bylaws of the Association which is damaged or destroyed. All Common Elements shall be conveyed to the Association in their “as is” condition without any express or implied warranty. [DECLARANT



HEREBY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE COMMON ELEMENTS.]

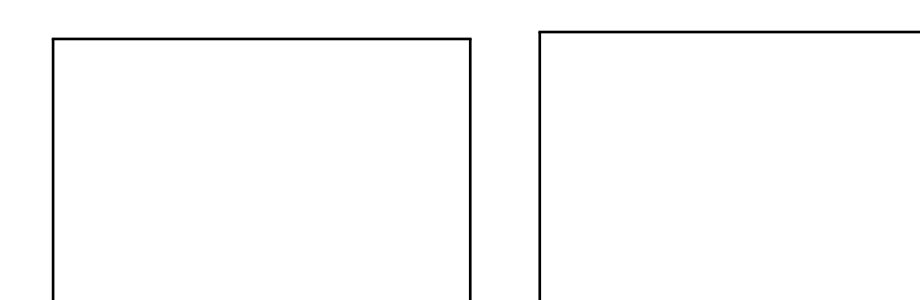
The Association also may acquire additional Common Elements with the consent of the Members of the Association entitled to cast at least two-thirds (2/3) of the votes of each class of Members of the Association, who are voting, in person or by proxy, at a meeting duly called for such purpose; provided, however, during Declarant's Development Period no such action shall be effective without Declarant's consent and approval. For such a conveyance to be effective, the deed or instrument conveying to the Association additional Common Elements must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the instrument on behalf of the Association that the requisite owner and Declarant approval has been obtained and is evidenced by written acknowledgments signed by the owners approving the amendment and if required, Declarant, and that such acknowledgments are made a part of the minute book of the Association; and (3) be properly recorded in the Pender County Registry.

**SECTION 6. Declarant.** "Declarant" shall mean and refer to Cornerstone Venture Partners, Inc, a North Carolina corporation, as well as its successors and assigns, pursuant to an express assignment or conveyance (whether partial or in whole) of any declarant rights hereunder to such successor or assign, all of which rights, including Declarant's voting, architectural review, easement and development rights, shall be assignable and may be apportioned on a lot-by-lot basis.

**SECTION 7. Declarant's Development Period.** "Declarant's Development Period" shall mean and refer to the period of time commencing on the date this Declaration is recorded in the Office of the Register of Deeds, Pender County, North Carolina, and continuing for so long as Declarant shall have the right to annex any portion of the Additional Property pursuant to the provisions of Article X, Section 4 hereof or Declarant or any affiliates of Declarant, including but not limited to Cornerstone Ranch, LLC, Cornerstone Family Properties, LLC or the Kevin J. Smith Revocable Trust (the "Affiliates of Declarant"), shall own any portion of the Properties or Additional Property.

**SECTION 8. Entrance Features.** "Entrance Features" shall mean and refer to the landscaping, signage and other entrance features located on any portion of the Properties, from time to time.

**SECTION 9. Lot or Lots.** "Lot" or "Lots" shall mean and refer to Lots 1 through 21, inclusive, and 23 through 34, inclusive on the Plat and any other separately numbered plot of land shown upon the Plat or subsequently recorded subdivision plat of the Properties and shall include any improvements constructed thereon and "Lots" shall refer to all such lots collectively. Declarant hereby reserves the right to reconfigure, from time to time and without the consent of the Owners or the Members of the Association, the boundaries of any Lot or Lots owned by Declarant and to thereby create additional Lots, eliminate existing Lots or create additional Common Elements; provided, however, in no event shall the Properties contain a greater number of Lots than the number from time to time permitted by the Appropriate Local Governmental



Authority, nor shall any Lot within the Properties contain fewer square feet than the minimum number of square feet from time to time required by the Appropriate Local Governmental Authority. If Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by Declarant, Declarant shall record a revised plat of the affected Lot or Lots. Upon the recording by Declarant of such a revised plat, each lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a "Lot" as defined in this Declaration and each newly configured lot shown on the revised plat shall be a "Lot" as defined in this Declaration.

**SECTION 10. Member.** "Member" shall mean and refer to every person or entity who holds Membership with voting rights in the Association.

**SECTION 11. Owner.** "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

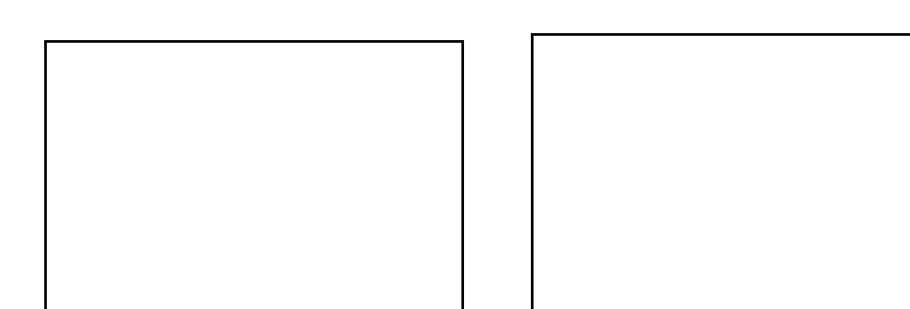
**SECTION 12. Period of Declarant Control.** "Period of Declarant Control" shall mean and refer to the period of time commencing on the date this Declaration is recorded in the Office of the Register of Deeds, Pender County, North Carolina, and continuing until the later of the following shall occur: (i) for so long as Declarant or any Affiliates of Declarant shall own any portion of the Properties or (ii) upon the expiration of Declarant's Development Period. It being the intent that in the event that Declarant ceases to own any of the Properties but has the right to annex any portion of the Additional Property pursuant to the provisions of Article X, Section 4 hereof, the Period of Declarant Control shall remain with the Declarant.

**SECTION 13. Properties.** "Properties" shall mean and refer to all of the property hereby or hereafter made subject to the terms, covenants and conditions of this Declaration, as amended from time to time.

## ARTICLE II PROPERTY RIGHTS

**SECTION 1. RECREATIONAL AMENITIES WHICH MAY BE LOCATED IN THE COMMON ELEMENTS.** Declarant hereafter may construct or cause to be constructed the Amenity Facilities, Entrance Features, and other facilities on a portion of the Common Elements. Declarant does not contemplate the construction of any other recreational improvements or amenities within the Common Elements.

During Declarant's Development Period, Declarant or its affiliate shall have the right to require the exclusive (or, at the discretion of Declarant or its affiliate, non-exclusive) use of all or certain portions of any Common Elements for events promoting the sale of Lots; provided, however, no such use by Declarant or its affiliate shall unreasonably interfere with or obstruct ingress, egress and regress to or from the Lots.



Pursuant to rules and regulations, to the extent from time to time so promulgated by the Association, the Association, in the sole discretion of the Association's Executive Board or its designee, may allow a Member of the Association exclusive use of all or certain portions of any Common Elements for private events. Such rules and regulations may require that fees and/or deposits be paid to the Association in connection with such exclusive private use. Any damage to the Common Elements or any improvements located thereon during any such private event and any liability incurred by the Association as a result thereof not covered by insurance maintained by the Association (including any deductible) shall be the personal obligation of the Member or Members (joint and several) reserving the Common Elements and if not paid within thirty (30) days of written demand therefor shall be subject to collection by the Association in accordance with the provisions of Article X hereof.

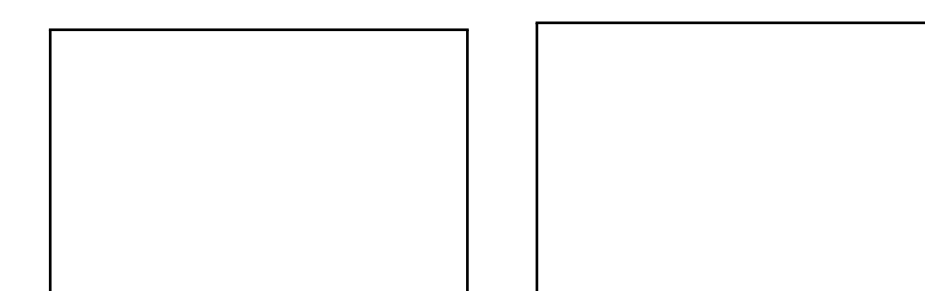
**SECTION 2. MAINTENANCE OF DRAINAGE IMPROVEMENTS.** The Association shall maintain any ponds, lakes, drainage or erosion control devices, ditches, swales or other drainage features located on or within the Common Elements. In the event the Association is dissolved or otherwise defaults on its obligation to maintain any such drainage or erosion control device, Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for 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 pro rata share of the cost of the maintenance of such pond or erosion control device.

**SECTION 3. RULES AND REGULATIONS.** The Executive Board of the Association may establish reasonable rules and regulations concerning the use of the Common Elements and improvements located thereon. Such rules and regulations may prohibit or restrict the use of the Common Elements, Amenity Facilities and Entrance Features. The Association may impose reasonable monetary fines and other sanctions for the violation of established rules and regulations and for the violation of any of the covenants and conditions contained in this Declaration, which monetary fines and sanctions shall be assessed and collected pursuant to the provisions of Articles IV and X hereof. All such rules and regulations shall be binding upon the owners, their families, tenants, guests, invitees and agents until and unless such regulation, rule or requirement shall be specifically overruled, canceled, or modified by the Executive Board of the Association or after the Declarant's Development Period, by the Members of the Association entitled to cast at least two-thirds (2/3) of the votes of the Association, who are voting, in person or by proxy, at a meeting duly called for such purpose.

**SECTION 4. OWNERS EASEMENTS OF ENJOYMENT.** Every Owner shall have a right and easement of enjoyment in and to the Common Elements, including the rights to exclusive use of those portions of the Common Elements, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the easements herein reserved by Declarant or created in favor of the Association, including, without limitation the easements set forth in Article VIII hereof;

(b) the right of the Association to permit the use of and to charge reasonable admission and other fees for the use of the Amenity Facilities or any recreational facility situated upon the Common Elements;



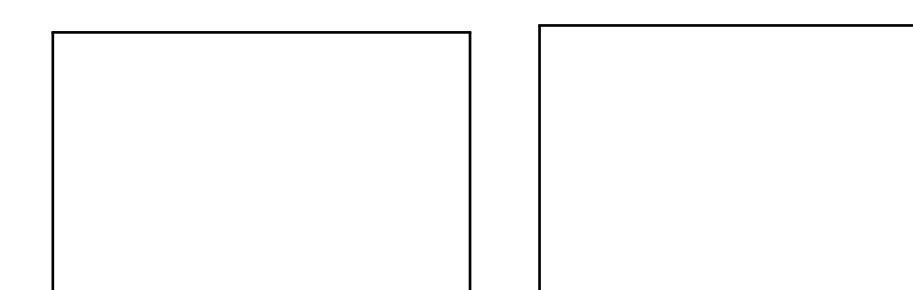
(c) the right of the Association to suspend the voting rights by the Owner(s) of any Lot for any period during which any assessment against such Lot remains unpaid and for any period during which such Lot or any Owner or occupant thereof is in violation of the terms of this Declaration or the published rules and regulations of the Association and for a period not to exceed sixty (60) days after any such violation;

(d) the right of the Association to dedicate or transfer non-exclusive easements on, over and upon all or any part of the Common Elements for such purposes and subject to such conditions as may be agreed to by the Association's Executive Board; provided, however, no such dedication or transfer shall be effective unless an instrument executed on behalf of the Association by its duly authorized officers, agreeing to such dedication or transfer, has been recorded. To the extent located within any Lot and required by the grantee for such easements, the Owner of such Lot shall be required to consent to such easements and shall execute and deliver to the grantee therein or the Association, such agreement(s) and instrument(s) in standard form, within ten (10) days after written request by the Association or grantee therein;

(e) the right of the Association, with the consent of the Members entitled to cast at least eighty percent (80%) of the votes of the Association, to dedicate or transfer fee title to all or any part of the Common Elements for such purposes and subject to such conditions as may be agreed to by the Members consenting to such dedication or transfer; provided, however, during Declarant's Development Period, Declarant must also consent to such action and, further provided that no such dedication or transfer shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances;

(f) the right of the Association to impose rules and regulations for the use and enjoyment of the Common Elements and improvements thereon, which regulations may further restrict the use of the Common Elements, and specifically including the right to make permanent and temporary assignments of parking spaces and to establish rules and regulations concerning parking and vehicular traffic flow on and along the streets and roadways, whether public or private, within or abutting the Properties which rules and regulations may restrict or prohibit on-street parking and may be enforced by towing at the expense of the vehicle's owner, by reasonable fine levied against the vehicle's owner and/or any Owner of a Lot to which such violation reasonably may be attributed, or by any other reasonable method of enforcement established by the Association's Executive Board;

(g) the right of the Association to borrow money for the purpose of improving the Common Elements and facilities thereon and, with the assent of the Members entitled to cast at least eighty percent (80%) of the votes of the Association to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred (any such mortgage shall be effective if it is executed on behalf of the Association by its duly authorized officers and recites that the requisite consent of Members has been obtained and documented in the Minute Book of the Association); provided, however, during Declarant's Development Period, Declarant must also consent to such action, and further provided that no



such mortgage, encumbrance or hypothecation or foreclosure of the lien thereby created shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances; and

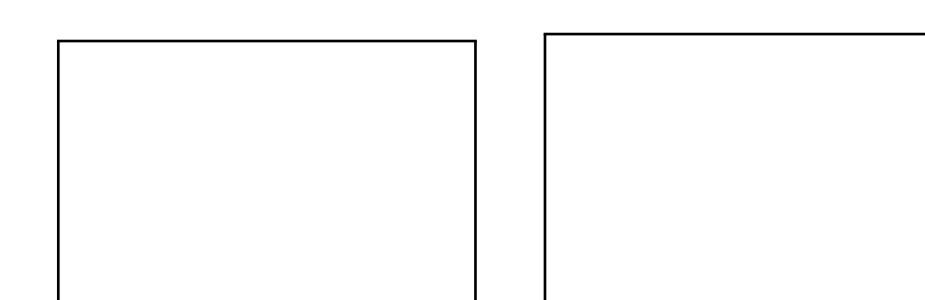
(h) the right of the Association to convey to Declarant portions of the Common Elements for the purpose of correcting erroneous conveyances of Common Elements or eliminating unintentional encroachments of dwellings or other improvements onto portions of the Common Elements or for the purpose of enhancing the utility of the Common Elements to be retained by the Association; provided, however, no such conveyance shall interfere with or obstruct utility service to, or ingress, egress and regress to or from, the Lots or any remaining Common Elements or cause any Lot or any remaining Common Elements to fail to comply with applicable laws, regulations or ordinances.

**SECTION 5. DELEGATION OF USE.** Any Owner may delegate, in accordance with the Bylaws, such Owner's rights of enjoyment of the Common Elements and facilities to the members of such Owner's family, tenants or contract purchasers who reside on the Lot of such Owner.

**SECTION 6. LEASES OF LOTS.** Any Lease Agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation, Bylaws of the Association, rules and regulations from time to time promulgated by the Association and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the lease. All leases of Lots shall be in writing and include a term of not less than three (3) months.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

**SECTION 1. MEMBERSHIP.** Every person or entity who or which is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including Declarant and any affiliated entity, shall be a voting Member of the Association. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation. Such Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Except as otherwise provided in Section 2 below, on all matters which the Membership shall be entitled to vote, the Member(s) owning each Lot shall be entitled to one (1) vote. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.



**SECTION 2. CLASSES OF MEMBERSHIP.** The Association shall have two classes of voting membership:

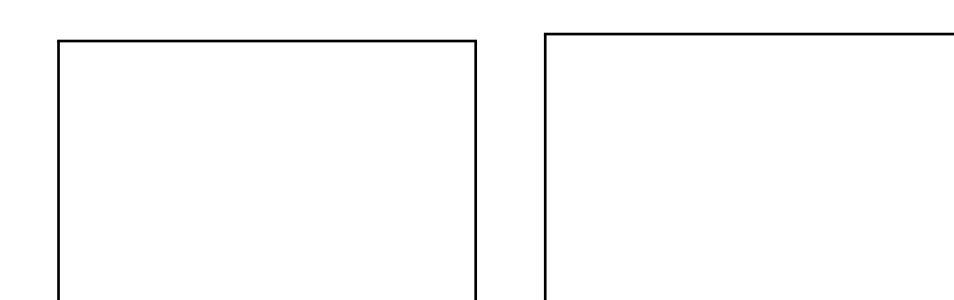
**Class A:** The Class A Members shall be every person or entity who or which is a record owner of a fee or undivided fee interest in any Lot in Kingbird, except for Declarant or any Affiliates of Declarant during any Period of Declarant Control. Class A Members shall be entitled to one (1) vote for each Lot owned. In the event that a Lot is owned by more than one Class A Member, the Owners of such Lot, collectively, shall be allocated not more than one (1) vote and the vote allocated to such Lot shall be cast as such Owners may agree between or among themselves.

**Class B:** Declarant shall be the Class B Member and Declarant shall be entitled to fifteen (15) votes for each platted Lot in Kingbird which has not been conveyed by Declarant to a Class A Member. The Class B membership shall cease and be converted to Class A membership when Declarant conveys all Lots to Class A Members or upon Declarant's voluntary surrender of all Class B Membership.

**SECTION 3. DECLARANT RIGHT TO REPRESENTATION ON THE EXECUTIVE BOARD OF THE ASSOCIATION.** During any Period of Declarant Control, Declarant shall have the rights, rights, among others described in this Declaration, the Articles, or Bylaws, to designate and select all of the Members of each Executive Board of the Association. Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Executive Board of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association, and Declarant shall have the right to remove any person or persons selected by it to act and serve on said Executive Board and to replace such person or persons with another person or other persons to act and serve in the place of any member or members of the Executive Board so removed for the remainder of the unexpired term of any member or members of the Executive Board so removed. Any Executive Board member designated and selected by Declarant need not be a resident of the Properties. Except as otherwise provided in the Bylaws with respect to the filling of vacancies, any members of the Executive Board which Declarant is not entitled to designate or select shall be elected by the Members of the Association.

#### ARTICLE IV COVENANT FOR MAINTENANCE AND ASSESSMENTS

**SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.** The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay: (a) to the Association: (i) annual and other assessments and charges provided for herein, together with interest, and late fees, costs and reasonable attorney's fees; (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and (b) to the appropriate governmental taxing authority: (i) a pro rata share of ad valorem taxes levied against the Amenity Facilities and Entrance Features; and (ii) a pro rata share of assessments for public

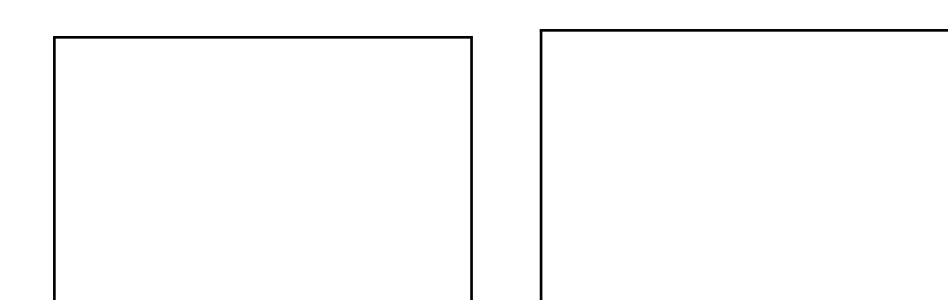


improvements to or for the benefit of the Common Elements if the Association shall default in the payment of either or both for a period of six (6) months. The Declarant shall not be obligated to pay any annual or special assessments for any Lot owned within the Properties. All assessments and charges provided for herein, together with interest, and late fees, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made when a claim of lien is filed of record in the Office of the Clerk of Superior Court, Pender County, North Carolina. Each such assessment and charge, together with interest, any late fees, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them.

## SECTION 2. PURPOSE OF ASSESSMENTS.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Elements or the Lots, including but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of any taxes assessed against the Common Elements, the payment of any assessments assessed against the Common Elements and any improvements thereupon; the maintenance of the Common Elements as provided in Article VI; the procurement and maintenance of insurance in accordance with the Bylaws; the maintenance of ponds, lakes, drainage or erosion control devices, ditches, swales or other drainage feature, if any, located within the Common Elements; the performance of any other maintenance or repair obligations of the Association under this Declaration; the erection, maintenance and repair of signs, entranceways, landscaping and lighting within easements provided therefor or the Common Elements, road medians and islands; the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Elements; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and such other needs as may arise. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Elements and those other portions of the Properties which the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for common expense.

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



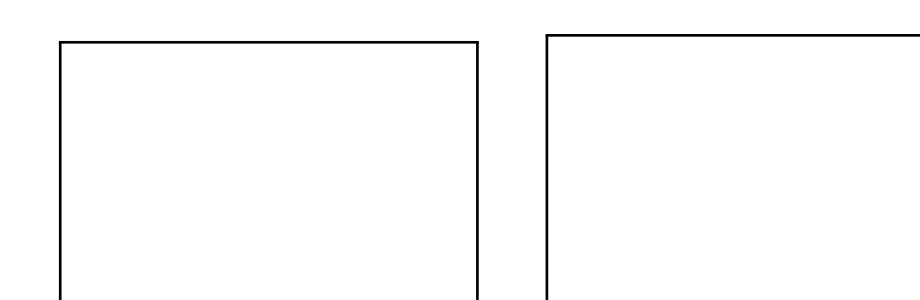
the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer such Owner's Membership interest therein, except as an appurtenance to such Owner's Lot. When any Owner shall cease to be a Member of the Association by reason of such Owner's divestment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

**SECTION 3. ADOPTION OF BUDGET AND FIXING OF ANNUAL ASSESSMENTS; MAXIMUM ANNUAL ASSESSMENT.**

(a) At least thirty (30) days in advance of each annual assessment period, the Executive Board shall establish an annual budget and fix the amount of the annual assessments in advance for the following year. Within thirty (30) days of the adoption of any proposed budget, the Executive Board shall provide to all of the Owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting the Owners of a majority of the Owners of Lots in the Association entitled to vote reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board.

(b) Until December 31 of the year of the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Six Thousand and No/100 Dollars (\$6,000.00) per Lot, and may be collected either annually in payment due upon the conveyance of the Lot to the Owner or in either quarterly or annual installments of One Thousand Five Hundred and No/100 Dollars (\$1,500.00) per Lot. The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter shall be established by the Executive Board and may be increased by the Executive Board without approval by the Membership during any Period of Declarant Control.

**SECTION 4. SPECIAL ASSESSMENTS.** In addition to the annual assessments authorized above, the Association may levy, in any calendar year, special assessment(s) to cover unbudgeted expenses or expenses in excess of those budgeted, without approval by the Membership during any Period of Declarant Control provided that any such assessment occurring outside of a Period of Declarant Control shall have the assent of the Members entitled to cast at least two-thirds (2/3) of the votes of each class of Members of the Association who are voting, in person or by proxy, at a meeting duly called for this purpose; provided, however, during the Declarant's Development Period, Declarant must also consent to such action. Special assessments shall be payable in such manner and at such times as determined by the Executive Board and may be payable in installments extending beyond the fiscal year in which the special assessment is approved.

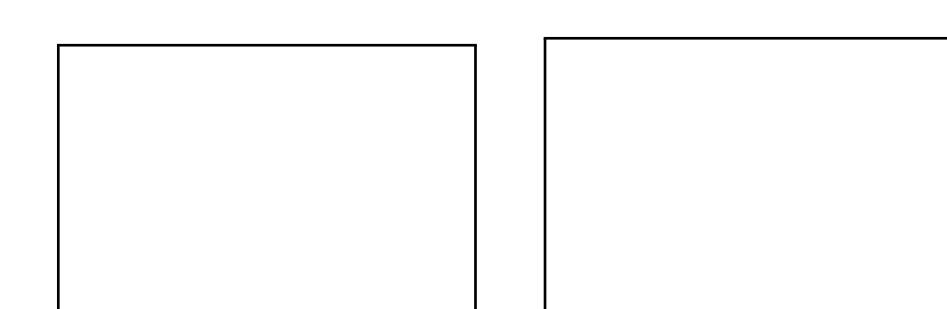


**SECTION 5. RATE OF ANNUAL ASSESSMENT.** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or annual basis, except that the Declarant shall not be obligated to pay any annual or special assessments for any Lot owned by Declarant within the Properties.

**SECTION 6. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES.** The annual assessments provided for herein shall commence as to a Lot on the first day of the month following the date such Lot is conveyed to an Owner other than Declarant. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The due dates shall be established by the Executive Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

**SECTION 7. WORKING CAPITAL ASSESSMENTS.** In addition to the annual assessments authorized above, at the time of the closing of the first sale of each Lot to a purchaser (other than Declarant or a successor declarant) and to the extent a Lot is further subdivided as approved by Declarant herein, the purchaser(s) or grantee(s) thereof shall pay to the Association an amount equal to Six Thousand and No/100 Dollars (\$6,000.00) or as otherwise established by the Association. Such funds shall be used by the Association to establish a working capital fund, the purpose of which is to help insure that the Association will have sufficient monies available to meet its initial operational needs, unforeseen expenditures or long-term capital improvements and repairs to the Common Elements. No such payments made into the working capital fund shall be considered advance or current payment of regular assessments. All monies paid into the working capital fund shall be held and administered by the Association in accordance with the terms of the Declaration and these Bylaws.

**SECTION 8. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate from time-to-time established by the Association not to exceed eighteen percent (18%) per annum. In addition, the Association may charge a reasonable late fee, the amount of which shall be established from time to time by the Executive Board of the Association, for assessments not paid within thirty (30) days after the due date. In addition after notice and an opportunity to be heard, the Association may suspend privileges or services provided by the Association (except rights of access to Lots) during any period that assessments or other amounts due and owing to the Association remain unpaid for a period of thirty (30) days or longer, which suspension may continue without further hearing until the delinquency is cured. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner that real estate deeds of trust and mortgages may be foreclosed under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes, and in any suit for the foreclosure of said lien, the Association shall be entitled to interest, any late fees, costs and reasonable attorneys' fees, subject to the limitations set forth in this paragraph. Notwithstanding any of the foregoing, the Association may not foreclose an assessment lien under power of sale if the debt securing the lien consists solely of fines imposed by the Association, interest on unpaid fines, or attorneys' fees incurred by the Association solely associated with fines imposed by the Association, but such a lien may be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of

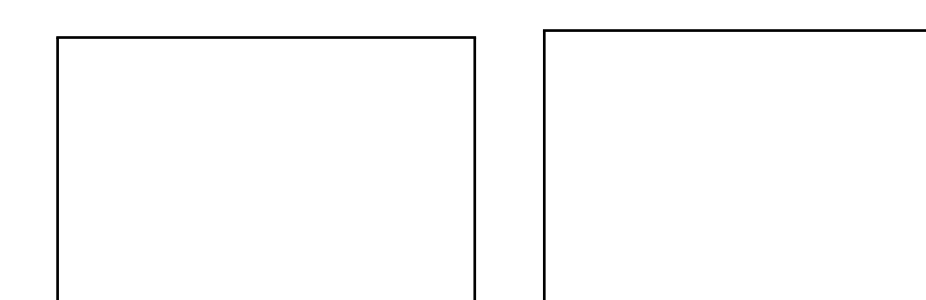


the North Carolina General Statutes. An Owner may not be required to pay attorneys' fees and court costs until the Owner is notified in writing of the Association's intent to seek payment of attorneys' fees and court costs. The notice must be sent by first-class mail to the property address and, if different, the mailing address for the Owner in the Association's records. The notice shall (i) set out the outstanding balance due as of the date of the notice, (ii) state that the Owner has fifteen (15) days from the mailing of the notice to pay the outstanding balance without the attorneys' fees and court costs, and (iii) inform the Owner of the opportunity to contact a representative of the Association to discuss a payment schedule for the outstanding balance and provide the Owner the name and telephone number of such representative. If the Owner pays the outstanding balance within this period, then the Owner shall have no obligation to pay the attorneys' fees and court costs. If the Owner does not contest the collection of debt and enforcement of a lien after the expiration of the fifteen (15) day period, then reasonable attorneys' fees shall not exceed One Thousand Two Hundred Dollars (\$1,200), not including costs or expenses incurred. The collection of debt and enforcement of a lien remains uncontested as long as the Owner does not dispute, contest, or raise any objection, defense, offset or counterclaims as to the amount or validity of the debt and lien asserted or the Association's right to collect the debt and enforce the lien. The attorneys' fee limitation shall not apply to judicial foreclosures. No Owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Elements or abandonment of such Owner's Lot nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

**SECTION 9. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENTS BY ASSOCIATION.** Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Elements or assessments for public improvements to the Common Elements, which default shall continue for a period of six (6) months, each Owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, such Owner's heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

**SECTION 10. PRIORITY OF LIEN.** The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the Office of the Clerk of Superior Court of Pender County, North Carolina, in the manner provided herein, which claim shall state the description of the Lot encumbered thereby, the name of the record owner(s), the amount due and the date when due and the name and address of the Association. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, it shall be satisfied of record.

**SECTION 11. EXEMPT PROPERTY.** All property dedicated to, and accepted by, a public authority and all properties owned by a charitable or non-profit organization exempt from



taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

## ARTICLE V ARCHITECTURAL CONTROL

### SECTION 1. IMPROVEMENTS.

(a) No structures, fences, walls, buildings, improvements or construction, shall be commenced, erected, or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein (including, without limitation, any change of color) be made to any Lot, except in compliance with this Article, nor shall any such work commence, to the extent governed herein, until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee according to the provisions of Section 2.

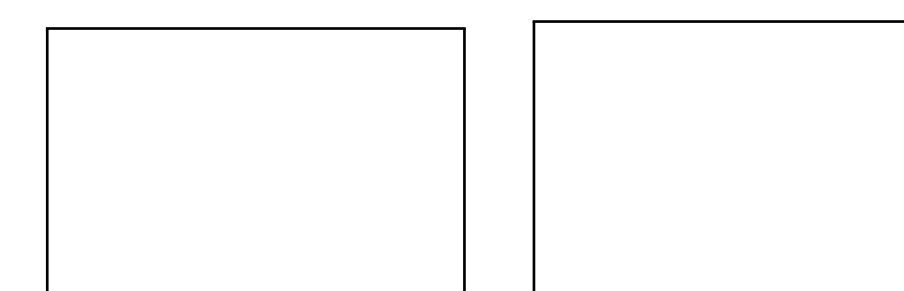
(b) Any Owner may remodel, paint or redecorate the interior of structures on his Lot without approval. Approval of the Architectural Control Committee shall, however, be required to repaint the exterior of a structure unless in accordance with the originally approved color scheme or to rebuild unless in accordance with originally approved plans and specifications.

(c) This Article shall not apply to the activities of the Declarant or Affiliates of Declarant, nor to improvements to the Common Area by or on behalf of the Association.

(d) During the Period of Declarant Control or Declarant's Development Period, this Article may not be amended without the Declarant's written consent.

### SECTION 2. PROCEDURES.

(a) Responsibility for administration and review of all applications for construction and modifications under this Article shall be handled by the Architectural Control Committee as described below. The members of the Architectural Control Committee need not be Members of the Association and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Executive Board. The Executive Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in or prior to review. The Architectural Control Committee shall consist of at least three, but not more than five, persons and shall have exclusive jurisdiction over all construction on any portion of the Properties to the extent of this Article. During the Declarant's Development Period, the Declarant retains the right to appoint all members of the Architectural Control Committee who shall serve at the Declarant's discretion. After the Declarant's Development Period the Board shall be entitled to appoint the members of the Committee, who shall serve and may be removed in the Board's discretion.



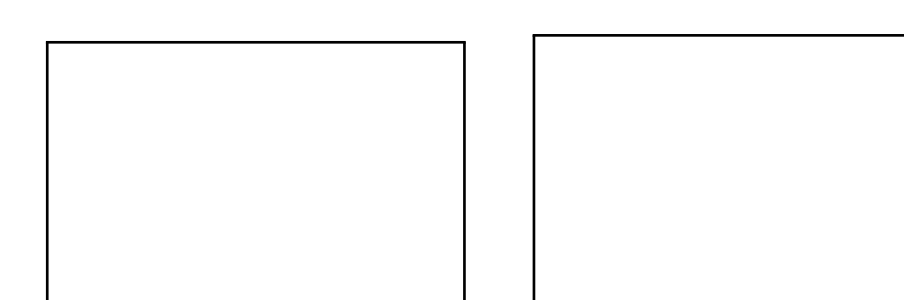
(b) Any person desiring to make any improvement, alteration or change described in Section 1 above shall submit the plans and specifications therefor, showing the nature, kind, shape, height, materials and location of the same, to the Executive Board of the Association or the Architectural Control Committee which shall evaluate such plans and specifications in light of the purposes of this Article.

(c) Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specification, as approved, shall be deposited for permanent record with the Architectural Control Committee and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specifications shall not be deemed a waiver of the Architectural Control Committee's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval. As a condition to the granting of approval of any request made under this Article, the Association may require that the Owner(s) requesting such change be liable for any cost of maintaining, repairing and insuring the approved alteration. If such condition is imposed, the Owner(s) shall evidence consent thereto by a written document in recordable form satisfactory to the Association. Thereafter, the Owner(s), and any subsequent Owner(s) of the Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, are deemed to covenant and agree that the cost of maintaining, repairing and insuring such alteration shall be a part of the annual assessment or charge set forth herein, and subject to the lien rights described herein.

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

## ARTICLE VI MAINTENANCE

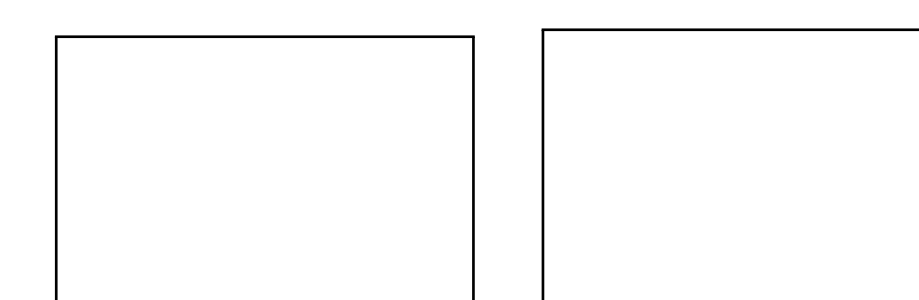
**SECTION 1. MAINTENANCE TO BE PERFORMED BY THE ASSOCIATION.** The Association shall maintain the Common Elements, Amenity Facilities and Entrance Features,



within the Common Elements which have not been accepted for dedication by a public authority, drives, streets and/or driveways that have been dedicated to public use but have not been accepted for public maintenance and street lights erected by the Association or Declarant in the Common Elements, rights-of-way of streets (whether public or private) or in any other easement provided for such purpose. Without limiting the foregoing, the Association shall maintain any ponds, lakes, drainage or erosion control devices, ditches, swales or other drainage feature, if any, located within the Common Elements now or hereafter conveyed to, or established for, the Association by Declarant. In the event the Association is dissolved or otherwise defaults on its obligation to maintain any such ponds, lakes, drainage or erosion control devices, ditches, swales or other drainage feature, Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for 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 pro rata share of the cost of the maintenance of such pond or erosion control device.

**SECTION 2. MAINTENANCE TO BE PERFORMED BY THE OWNERS.** Each Owner shall be responsible for the exterior maintenance of such Owner's Lot, including the accessory buildings, cabins, facilities, dwelling(s) and improvements located thereon, including, without limitation, the following: painting, replacement and care of roofs, gutters, downspouts, exterior building surfaces, lawn, trees, shrubs, landscaping, driveways, steps, walks and other exterior improvements. Each Owner shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all utility lines, fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to such Owner's Lot which are not publicly maintained. To the extent the on-site treatment and drainage of stormwater and surface water is required in connection with an Owner's use of a Lot, the use of such on-site treatment and drainage of stormwater and surface water shall be in compliance with all applicable permits, codes and regulations of any appropriate governmental entity. No structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of existing drainage features, ditches, swales, ponds or erosion control devices, including but not limited to those intended for retention or detention, to the extent located on any Lot which may change the direction of flow or drainage and any such featured shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

In the event that an Owner neglects or fails to maintain such Owner's improved Lot and/or the exterior of such Owner's dwelling(s) or improvements in a manner consistent with other improved Lots and dwellings within the Properties or fails to maintain such Owner's improved Lot in a safe condition and free of debris, including any Common Elements, located thereon, the Association may provide such maintenance; provided, however, that the Association shall first give written notice to the Owner of the specific items of maintenance or repair the Association intends to perform and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance by such Owner. The determination as to whether an Owner has neglected or failed to maintain such Owner's Lot and/or dwelling(s) or improvements in a manner consistent with other Lots and dwellings and improvements within the Properties shall be made by the Executive Board of the Association, in its sole discretion. In the event the Association performs such maintenance, repair or replacement, the cost of such maintenance, replacement or repairs shall be added to and become



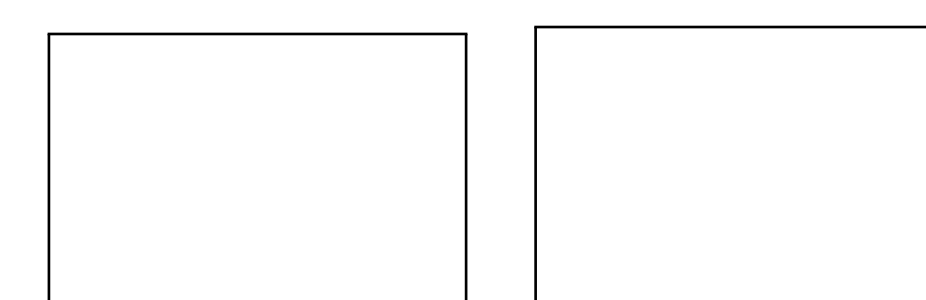
a part of the assessment to which such Lot is subject. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

## ARTICLE VII RESTRICTIONS

**SECTION 1. LAND USE.** No buildings, accessory buildings, cabins or other facilities shall be erected, placed or permitted to remain on any Lot except in accordance with the approval of the Architectural Control Committee as provided in Article V of this Declaration and in compliance with all applicable codes and regulations of any appropriate governmental entity.

**SECTION 2. DWELLING SPECIFICATIONS.** No dwelling, excluding any approved accessory buildings, cabins or other facilities, shall be erected or allowed to remain on a Lot if the main structure, exclusive of open porches, decks and garages, contains less than Fifteen Hundred (1,500) square feet of enclosed air conditioned space. No mobile homes or non-permanent structures shall be located on a Lot. Notwithstanding the foregoing, nothing contained herein shall prohibit an Owner from building/locating approved accessory buildings, cabins or other facilities for hunting and other recreational purposes, in accordance with this Declaration, regardless of their composition, provided however, that no such person shall occupy or reside on a Lot except in dwellings which have received a certificate of occupancy from the appropriate governmental entity. Notwithstanding the foregoing, Declarant, at all times, may maintain temporary improvements (such as a sales office and/or construction trailer) on any Lot. To the extent approved by Declarant and only during the time period required for construction and development of such Lots, Owners of Lots shall be permitted to temporarily reside in a Recreational Vehicle (defined below) and Builders or contractors of such Owner shall be permitted one construction trailer per Lot.

**SECTION 3. NUISANCE.** No noxious or offensive activity shall be conducted upon any Lot or the Common Elements nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. In the event that any Lot Owner or any other person conducts obnoxious or offensive activity upon any Lot or does anything thereon which may be or may become an annoyance or nuisance to the neighborhood, a written complaint can be filed by a Lot Owner with the Association. If after investigation the Complaint is deemed legitimate by the Association, the Association will make a written request to the owner of the Lot upon which the activity is being conducted that the obnoxious or offensive activity be stopped immediately. If the activity continues for two (2) days after this written notice is issued by the Association, any complaining Lot Owner can pursue judicial relief against the offending Lot Owner or the offending person. All Lot Owners expressly waive any claims against Declarant related to any obnoxious or offensive activity conducted upon any Lot or relating to anything done upon any Lot which may be or may become an annoyance or nuisance to the neighborhood, except to the extent that the alleged obnoxious or offensive activity is conducted by the Declarant or the Declarant's agent. No Lot or other area within Properties shall be used as a dumping ground for rubbish or as a site for the accumulation of unsightly materials

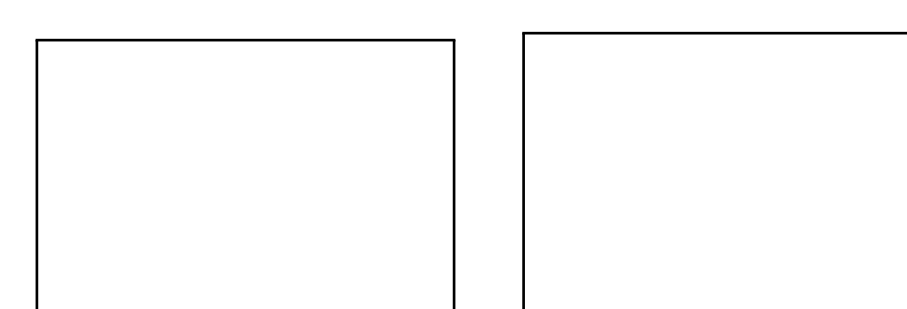


of any kind, including, without limitation, broken or rusty equipment and discarded appliances and furniture.

**SECTION 4. ANIMALS.** No animals, livestock or poultry of any kind shall be raised, bred, kept, or maintained on the Common Elements or on any Lot or in any dwelling for any Prohibited Commercial Purposes and further provided that animals, livestock or poultry of any kind, to the extent permitted, shall be kept and maintained in compliance with all laws and ordinances of the State of North Carolina, the County of Pender relating thereto. Prohibited Commercial Purposes shall mean and refer to: (a) operations involving the large-scale slaughter or processing of livestock for meat production or other purposes; (b) large-scale poultry operations, including but not limited to those intended for large scale egg production or meat processing facilities; (c) operations involving the intensive feeding and confinement of livestock for commercial purposes, including but not limited to the breeding, raising, or confinement of pigs or hogs for commercial purposes; (d) large-scale breeding operations involving dogs or other domestic animals that prioritize profit over the welfare of the animals; and (e) any other commercial livestock activity deemed offensive or disruptive, such as operations generating excessive odors, noise, waste, or traffic. Small-scale activities, such as backyard chickens and slaughter of livestock for personal use of any Owner may be allowed provided they are in compliance with all applicable codes and regulations of any appropriate governmental entity. The breach of any of these restrictions, obligations and duties shall be a noxious and offensive activity constituting a private nuisance.

**SECTION 5. SUBDIVISION OF LOTS.** No Lot shall be subdivided into a smaller Lot or otherwise recombined, subdivided, made subject to a horizontal property regime, condominium, or other form of ownership by which portions of the Lot may be sold or conveyed independent of other portions, nor shall any ground lease or other device be used to fracture the ownership, control, or management of portions of either Lot, different from the Lot shown on the Plat or on any revised recorded plat of the Lot or Lots, without the Declarant's written consent which may be withheld in Declarant's sole discretion, unless such smaller Lot so created shall be the greater of: (i) ten (10) acres or (ii) the minimum acreage as required by appropriate governmental entity and otherwise exempt and in compliance with any applicable subdivision regulations, in which case Declarant shall not unreasonably withhold, condition or delay its approval. Declarant shall have the absolute right, in Declarant's sole discretion and in any manner, to combine, recombine, divide or redivide any lots or parcels, owned by Declarant and to place on record plats of any such combined, recombined divided or redivided lots or parcels and to submit or withdraw said lots or parcels from the provisions of this Declaration without the consent or joinder of the Association or Owners of the other Lots.

**SECTION 6. BUFFERS.** Any portion of the Property subjected to this Declaration and designated as a buffer, or words of similar import on the Plat or on any revised recorded plat of the Lot or Lots, shall be preserved and maintained and shall be left in a natural growth state wherein no cutting of trees or removal of any vegetation shall occur in perpetuity except if (i) an adjoining property owner allows or grants a modification, (ii) an improved road connection or utility easement is or may be located in such buffer, (iii) the maintenance of a watercourse, creek, or stream, or (iv) litter removal, weeding, thinning, light mowing, and the removal of



diseased, dead, dying or invasive trees or vegetative material for safety purposes. No signage exceeding two (2) feet by two (2) feet shall be permitted in designated buffers.

**SECTION 7. SIGNS.** No sign(s) shall be placed or allowed to remain on any Lot except as approved by the Architectural Committee or Declarant. No sign deemed by the Association, the Architectural Committee or Declarant to be a nuisance or a detriment to the Properties or the Additional Property shall be permitted to be erected or to remain on any Lot. Notwithstanding the foregoing, during Declarant's Development Period, Declarant and any affiliate shall have the right to erect and maintain signs within the Common Elements or on any Lot owned or leased by Declarant or such affiliate for the purpose of advertising and promoting the sale of such lots.

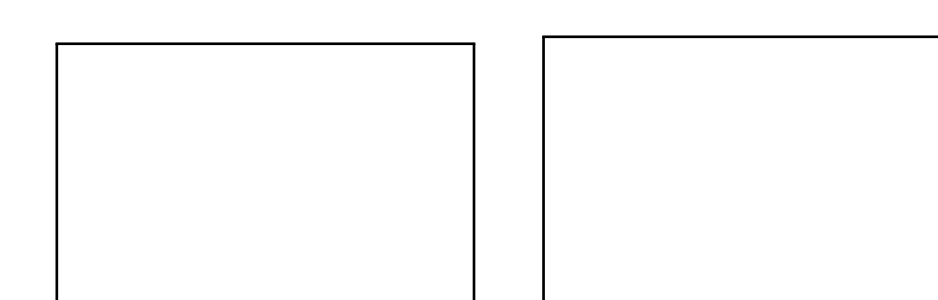
**SECTION 8. FENCES OR WALLS.** No fence, wall or other enclosure shall be constructed on any Lot without first obtaining the approval of the Architectural Control Committee as provided in Article V of this Declaration. Chain link fences are not permitted and any fence so approved must be professionally built and maintained in good condition or appearance. Fences, walls and other enclosures along the front property line shall be set back so as to not encroach on any Common Elements and shall not exceed a height of five (5) feet and maintain an opacity level of 50% or less, ensuring visibility through the fence. Notwithstanding the foregoing, Declarant, its successors and assigns, and the Association shall have the right to erect chain link fences and any other type of fences and enclosures within the Common Elements to enclose retention ponds and for other purposes without the approval of the Architectural Control Committee, such fences and other enclosures to become a part of the Common Elements to be maintained by the Association.

**SECTION 9. MINING OPERATIONS.** No drilling, refining, quarrying or mining operations of any kind shall be permitted on any Lot.

**SECTION 10. MAILBOXES.** Some Lots may be served by a single mailbox bank or kiosk. If that is the case, no mailboxes shall be installed or allowed to remain on any Lot which has a mailbox within such mailbox kiosk. Any Lots which are not served by such a mailbox kiosk may, have individual mailboxes and must be maintained by the Lot Owner. Boxes and/or posts damaged shall be repaired to an attractive condition or replaced by the Lot Owner within thirty (30) days of loss or damage.

**SECTION 11. SEPTIC SYSTEMS.** Each Owner of Lot shall be responsible for all of the costs of construction, installation and continuous maintenance of the any septic systems located on a Lot in accordance with applicable laws, regulations or ordinances and permits issued therewith.

**SECTION 12. RECREATIONAL VEHICLES.** For the purposes of this Declaration, "Recreational Vehicle" shall include motor homes, campers, campervans, coaches, trailers, travel trailers which include living quarters designed for habitation and/or accommodation. Except as otherwise provided herein, Recreational Vehicles shall not be used as living quarters, guest accommodations, or for any other residential purpose while located within the Properties. Temporary occupation of Recreational Vehicles on a Lot may be permitted for no more than



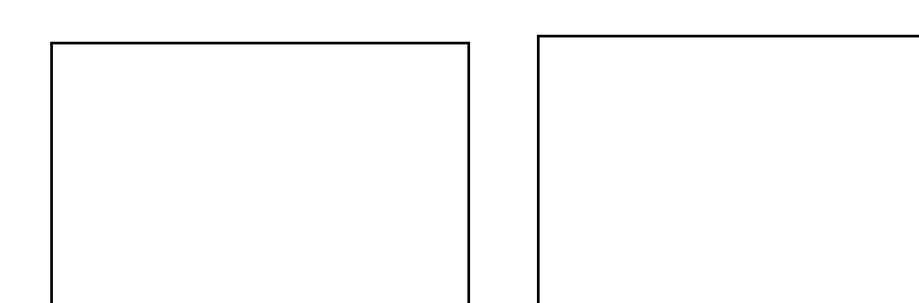
fourteen (14) days in any thirty (30) day period, provided prior written notice of such temporary occupation is provided to the Association prior to such use. The use of RVs for business or commercial purposes within the neighborhood is strictly prohibited, it being the intent that so-called "RV Parks" which are used to accommodate multiple Recreational Vehicles for lease or rent be strictly prohibited herein.

## ARTICLE VIII EASEMENTS

**SECTION 1. UTILITIES.** Easements for installation and maintenance of utilities and drainage facilities are reserved as indicated on the Plat or on any revised recorded plat of the Lot or Lots, from time to time, including but not limited to the portion of the Common Elements labeled on the Plat as "20' Utility Easement" within the boundaries of Lots. In addition, Declarant reserves, for itself and the Association, a general utility easement for the purposes of maintaining any drainage or erosion control devices, ditches, swales or other drainage features located on or within the Lots. Within these easements no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of the appropriate governmental entity (and any other person or firm providing services to the Properties under agreement with or at the direction of the Association) over all Common Elements as may be reasonably necessary for the maintenance and replacement of drainage facilities and for the fighting of fires. The Association shall have the power and authority to grant and establish upon, over and across the Common Elements such additional easements as are necessary or desirable for the providing of service or utilities to the Common Elements or Lots.

**SECTION 2. SIGNS.** Declarant hereby grants, gives and conveys to the Association a perpetual, non-exclusive easement over any portions of the Common Elements on plats of the Properties, now or hereafter recorded, to erect, maintain, replace and repair subdivision signs and landscaping and/or lighting surrounding the same and all such easements shall be part of the Common Elements. The Association shall maintain all subdivision signs and landscaping and lighting surrounding the same now or hereafter erected within the Common Elements. The costs of all such maintenance, repair and replacement of such signs, landscaping and lighting shall be part of the common expenses of the Association, payable by the Owners as set out in Article IV hereof. Further, during Declarant's Development Period, Declarant and any Affiliate of Declarant shall have (i) the right to erect within the Common Elements additional subdivision signs and landscaping and lighting surrounding the same to be maintained by the Association as herein provided and (ii) the right to erect within the Common Elements signs advertising the sale and promotion of Lots or any portion of the Additional Property.

**SECTION 3. EASEMENT RESERVED BY DECLARANT.** Declarant hereby reserves such easements on, across and over the Common Elements as shall be reasonably necessary for (i) the exercise by Declarant or any Affiliates of Declarant of any right herein reserved, including, without limitation, Declarant's right, should Declarant elect, to annex the Additional Property, as hereinafter defined and (ii) the development by Declarant or any Affiliates of



Declarant, their respective successors and assigns, of the Additional Property, should Declarant elect not to annex the Additional Property, including without limitation easements for ingress, egress and regress over private roads and streets now or hereafter erected on the Properties and easements for the use of all utility lines, fixtures and/or their connections located within the Common Elements for the purpose of providing water, light, power, telephone, sewage and sanitary service to the Additional Property.

**SECTION 4. ENCROACHMENTS.** In the event that any improvements on a Lot shall encroach upon any Common Elements or upon any other Lot as a result of the initial improvements constructed by Declarant or for any reason not caused by the purposeful or negligent act of the Owner or agents of such Owner, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Common Elements or other Lot for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Elements shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Common Elements into any such Lot for so long as such encroachment shall naturally exist.

**SECTION 5. COMMON ELEMENTS;LOTS.** Declarant reserves, for itself and the Association, an easement for unobstructed access over, on, upon, through and across the Common Elements and Lots, at all reasonable times to 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 Association, as appropriate. Such easement includes an easement in favor of the Association to enter upon the Common Elements 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.

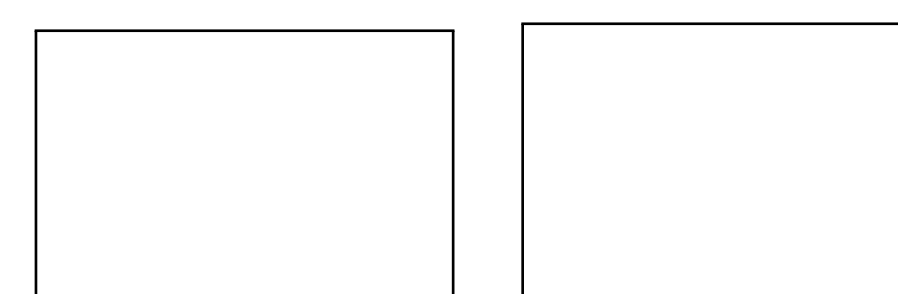
## ARTICLE IX

### RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

**SECTION 1. ENTITIES CONSTITUTING INSTITUTIONAL LENDERS.** "Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies or other firms or entities customarily affording loans secured by first liens on residences, and eligible insurers and governmental guarantors.

**SECTION 2. OBLIGATION OF ASSOCIATION TO INSTITUTIONAL LENDERS.** So long as any Institutional Lender shall hold any first lien upon any Lot and shall have given notice to the Association as set forth in Section 3 of this Article, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights:

(a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association prepared by a certified public accountant designated by the Executive Board of the Association, such financial statement or report to be furnished by April 15 of each 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 of Covenants, Conditions and Restrictions or the Articles of Incorporation or Bylaws of the Association or of any proposed abandonment or termination of the Association or the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association.

(c) To receive notice of any condemnation or casualty loss affecting the Common Elements or any portion thereof.

(d) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(e) To be given notice by the Association of any proposed alienation, release, transfer, hypothecation or other encumbrance of the Common Elements, other than those specific rights vested in the Association under Article II hereof.

(f) To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning a Lot encumbered by a mortgage held by the Institutional Lender, such notice to be given in writing and to be sent to the principal office of such Institutional Lender, or to the place which it may designate in writing.

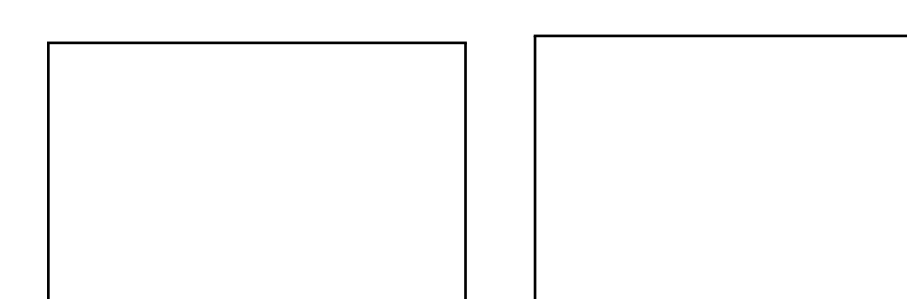
**SECTION 3. REQUIREMENTS OF INSTITUTIONAL LENDER.** Whenever any Institutional Lender desires to avail itself of the provisions of this Declaration, it shall furnish written notice thereof to the Association by CERTIFIED MAIL at the address shown in the Articles of Incorporation identifying the Lot or Lots upon which any such Institutional Lender holds any first lien or identifying any Lot or Lots owned by such Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Lender.

## ARTICLE X

### GENERAL PROVISIONS

**SECTION 1. ENFORCEMENT.** The Owner(s) of each Lot shall be governed by and shall comply with the provisions of this Declaration, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto, as any of the same are now constituted or as they may be amended from time to time. A default by any Owner shall entitle the Association or the Owner(s) of any of the other Lots to the following relief:

(a) 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, the Bylaws of the Association and all rules and regulations of the Association adopted pursuant thereto. Failure to comply with any of the terms of this Declaration or other restrictions and regulations contained

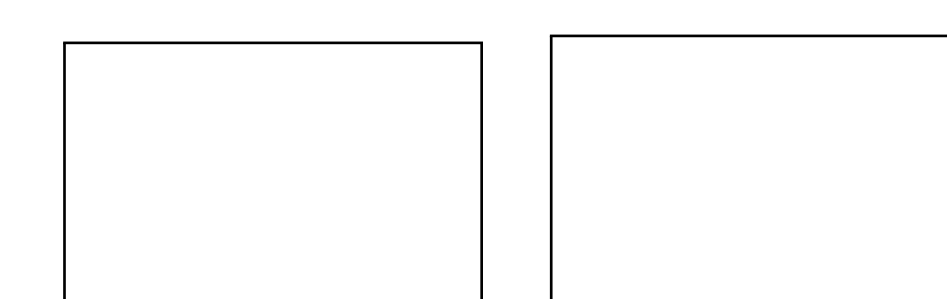


in the Bylaws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including without limitation an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Properties to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

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

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

(d) If an Owner is legally responsible for damage inflicted on any Common Elements, the Association may direct such Owner to repair such damage, or the Association may itself cause the repairs to be made and recover damages from the responsible Owner. If damage is inflicted on any Lot by an agent of the Association in the scope of the agent's activities as such agent, the Association is liable to repair such damage or to reimburse the Owner for the cost of repairing such damages. The Association shall also be liable for any losses to the Owner. When any such claim for damages against an Owner or the Association is less than or equal to the jurisdictional amount established for small claims by North Carolina General Statute 7A-210, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the Executive Board of the Association to determine if an Owner is responsible for damages to any Common Elements or the Association is responsible for damages to any Lot. Liability for each damage incident may be assessed against each Owner charged or against the Association not in excess of the jurisdictional amount established for small claims by North Carolina General Statute 7A-210. When such claim exceeds the jurisdictional amount established for small claims by North Carolina General Statute 7A-210, liability of any Owner charged or the Association shall be determined as otherwise provided by law. Liabilities of Owners determined by adjudicatory hearing or as otherwise provided by law shall be assessments secured by lien in the same manner as provided under the provisions of Chapter 47F of the General Statutes of North Carolina; provided however, the reference herein to Chapter 47F of the General Statutes of North Carolina is not deemed to subject the Property to the North Carolina Planned Community Act but is rather intended to provide the procedure for the enforcement and assessment of liens by the Association. Liabilities of the Association determined by adjudicatory hearing or as otherwise



provided by law may be offset by the Owner against sums owing to the Association and if so offset, shall reduce the amount of any lien of the Association against the Lot at issue.

(e) Adjudicatory proceedings pursuant to subparagraphs (b), (c) and (d) of this Section 1 may be held before the Executive Board or an adjudicatory panel appointed by the Executive Board. The Executive Board and any adjudicatory panel appointed by the Executive Board shall accord to the party charged pursuant to subparagraphs (b), (c) and/or (d) above notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. Any adjudicatory panel appointed by the Executive Board shall be composed of Members of the Association who are not officers of the Association or members of the Executive Board. An Owner may appeal the decision of an adjudicatory panel to the full Executive Board by delivering written notice of appeal to the Executive Board within fifteen (15) days after the date of the decision. The Executive Board may affirm, vacate, or modify the prior decision of the adjudicatory body.

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

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

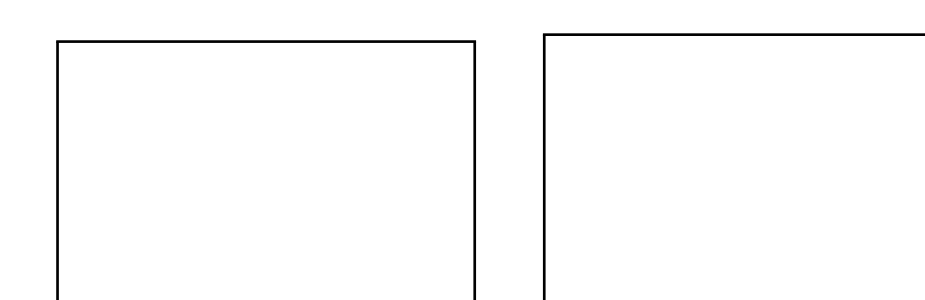
(h) All rights, remedies and privileges granted to the Association or the Owners, pursuant to any terms, provisions, covenants or conditions of the Declaration or other above mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an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

(i) The failure of Declarant to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration or other above mentioned document shall not constitute a waiver of the right of Declarant to thereafter enforce such right, provision, covenant or condition in the future.

**SECTION 2. SEVERABILITY.** Invalidation of any one of the covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

**SECTION 3. AMENDMENT.**

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

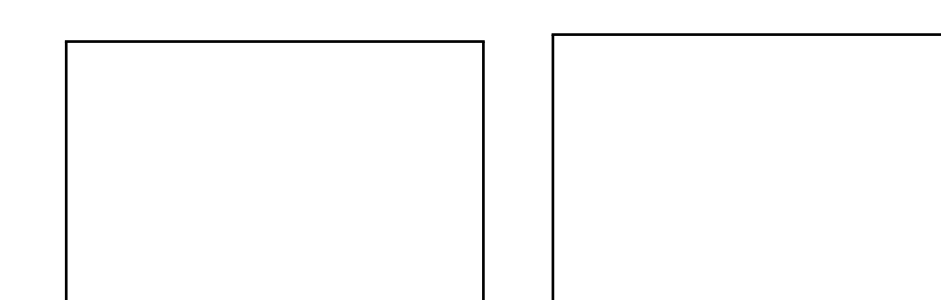


(ii) This Declaration may be amended unilaterally, without the approval of any Owners, by the Declarant (or the Board in the case of 2 through 6, hereof) as follows: (1) in any respect on or before December 31, 2047 provided Declarant or any Affiliates of Declarant, shall own any portion of the Properties provided the amendment does not materially alter or change any Owner's right to the use and enjoyment of such Owner's Lot and does not adversely affect the title to any Lot; (2) to the extent this Declaration applies to Additional Property, including, but not limited to, amendments to add additional classes of Membership to the Association, to add or alter Common Elements, and to establish minimum square footage and other standards for structures; (3) to correct any obvious error or inconsistency in drafting, typing, or reproduction; (4) to qualify the Association or the Properties and Additional Property, or any portion thereof, for tax-exempt status; (5) to incorporate or reflect any platting change as permitted by this Article or as otherwise permitted herein; or (6) to make any changes required by the Veterans Administration ("VA"), the Department of Housing and Urban Development ("HUD"), the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation "FHLMC") or any other private or governmental insurer of residential mortgage loans in order to obtain the approvals necessary for purchasers of Lots to obtain financing insured by any of the foregoing mortgage insurers.

(iii) This Declaration may otherwise be terminated or amended with the consent of the Owners entitled to cast at least eighty percent (80%) of the votes of the Association; provided, however, during Declarant's Development Period, this Declaration may not be amended or terminated without Declarant's consent; no amendment purporting to revoke or curtail any right herein conferred to Declarant shall be effective unless executed by Declarant; and no amendment relating to the maintenance or ownership of any drainage or erosion control devices, ditches, swales or other drainage features shall be effective unless reviewed and approved by the governmental office having jurisdiction for watershed protection. Any amendment, except amendments that Declarant is authorized to make unilaterally, must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the amendment on behalf of the Association that the requisite Owner and Declarant approval has been obtained and is evidenced by written acknowledgment(s) signed by the Owners approving the amendment and, if required, Declarant, and that such acknowledgments have been made a part of the minute book of the Association; and (3) be properly recorded in the Office of the Register of Deeds, Pender County, North Carolina. For the purpose of this section, additions to existing property by Declarant pursuant to Section 4 of this Article shall not constitute an "amendment."

#### SECTION 4. ANNEXATION.

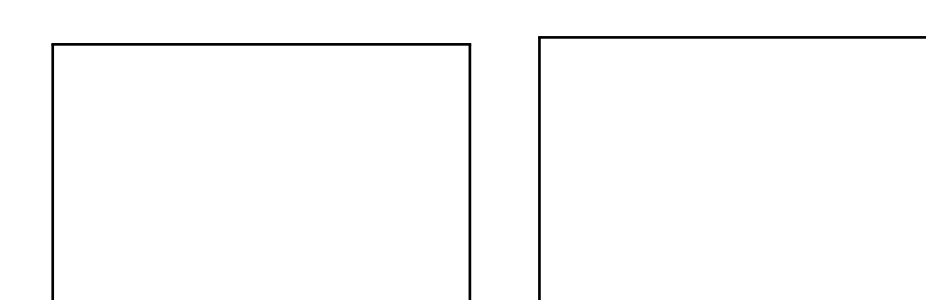
(a) Except as provided in Subsection (b) of this Section 4, Article X, Additional Property and Common Elements may be annexed to the Properties only with the consent of the Members entitled to cast two-thirds (2/3) of the votes each class of Members of the Association, who are voting, in person or by proxy, at a meeting duly called for such purpose; provided, however, during the Declarant's Development Period, Declarant must also consent to such action.



(b) All or any portion of the Additional Property may be annexed by the Declarant without the consent of Members within fifty (50) years of the date of this instrument. Declarant shall have no obligation of any kind to annex any or all of the Additional Property and, should Declarant elect to annex all or any portion of the Additional Property, Declarant shall have no obligation of any kind to annex the Additional Property in any particular sequential order. Should Declarant elect to annex all or any portion of the Additional Property and accordingly to subject such property to the terms and conditions of this Declaration, with regard to all or any part of the Additional Property annexed by Declarant, Declarant reserves the right to make such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration, including adjustments to assessments and working capital requirements, as may be necessary or convenient, in the sole judgment of the Declarant, to reflect the different character, if any, of the added properties to the extent not inconsistent with the plan of this Declaration, but such additions and/or modifications shall have no effect upon the properties previously subjected to this Declaration. With regard to any portion of the Additional Property not annexed by Declarant, Declarant makes no representations with regard to the use of such property or the exterior appearance, design, size or intended purpose of any improvements now or hereafter erected on such property.

**SECTION 5. AMPLIFICATION.** The Provisions of this Declaration are amplified by the Articles of Incorporation and Bylaws of the Association; but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws of the Association on the other be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything contained in the Articles of Incorporation or Bylaws of the Association.

[Signature Page to Follow]



IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed in its name as of the 15<sup>th</sup> day of January, 2025.

Cornerstone Venture Partners, Inc.

By: *[Signature]*  
Name: D I. Logan  
Title: Manager

**STATE OF NORTH CAROLINA**

Brunswick COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: D I. Logan.

Date: January 15<sup>th</sup>, 2025

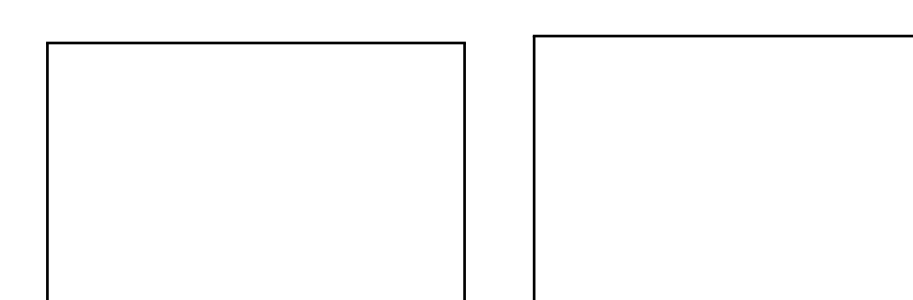
*Bernadette E Dickson*  
[Notary's signature as name appears on seal]

Bernadette E Dickson  
[Notary's printed name as name appears on seal]

**BERNADETTE E DICKSON**  
Notary Public, North Carolina  
New Hanover County  
My Commission Expires  
November 01, 2028

My commission expires: November 1, 2028

[Affix Notary Seal in Space Above]



**CONSENT OF DJM-NC, LLC**

DJM-NC, LLC ('DJM'), is the owner of a certain real property described in Deed Book 4817, Page 1302, of the Office of the Register of Deeds of Pender County (the "DJM Land"). The DJM Land is included in the Properties as described in the foregoing Declaration of Covenants, Conditions, and Restrictions for Kingbird (the "Declaration"). As the owner of DJM Land, DJM does hereby consent to the terms, conditions, and covenants in the Declaration and agrees that the DJM Land is subject to the terms, conditions, and covenants contained in said Declaration.

In witness whereof, DJM has caused this Consent to be signed this the 17<sup>th</sup> day of January, 2025.

DJM-NC, LLC

By: [Signature]  
Name: Daniel E. Smith  
Title: Manager

**STATE OF NORTH CAROLINA**

New Hanover COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document:

Daniel E Smith

Date: January 17<sup>th</sup>, 2025.

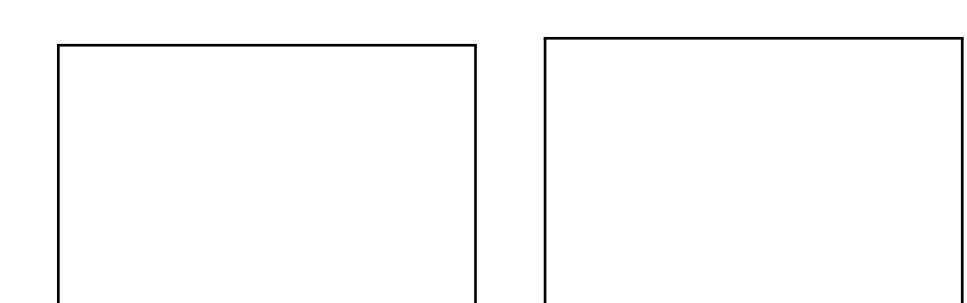
[Signature]  
[Notary's signature as name appears on seal]

Maura A. Patton  
[Notary's printed name as name appears on seal]

My commission expires: April 5, 2029



[Affix Notary Seal in Space Above]



**CONSENT OF BENEFICIARY**

Indian Pond Timber, LLC, the holder of that certain North Carolina Purchase Money Deed of Trust recorded in Book 4851, Page 2960, as reaffirmed, re-executed and reacknowledged in Book 4854, Page 1001 , of the Office of the Register of Deeds of Pender County (together with all amendments and modifications, collectively, the "Deed of Trust"). The Deed of Trust includes the Properties as described in the foregoing Declaration of Covenants, Conditions, and Restrictions for Kingbird (the "Declaration"). As holder of said Deed of Trust, Indian Pond Timber, LLC, does hereby consent to the terms, conditions, and covenants in the Declaration and agrees that the lien of said Deed of Trust is subject to the terms, conditions, and covenants contained in said Declaration.

In witness whereof, Indian Pond Timber, LLC has caused this Consent of Beneficiary to be signed in its corporate name, this the 15<sup>th</sup> day of January, 2025.

Indian Pond Timber, LLC

BY: [Signature]  
Name: D I. Logan  
Title: Manager

**STATE OF NORTH CAROLINA**

Brunswick COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: D I. Logan.

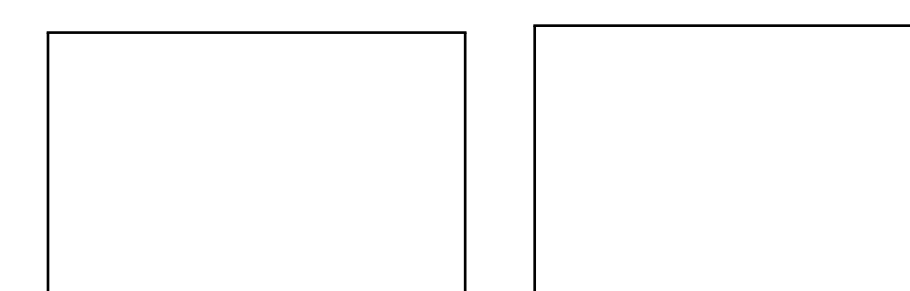
Today's Date: January 15<sup>th</sup>, 2025 [Signature]  
[Notary's signature as name appears on seal]

Bernadette E Dickson  
[Notary's printed name as name appears on seal]

**BERNADETTE E DICKSON**  
Notary Public, North Carolina  
New Hanover County  
My Commission Expires  
November 01, 2028

My commission expires: November 1, 2028

[Affix Notary Seal in Space Above]



**SCHEDULE A-1**

**DECLARANT PROPERTY**

Being all of Lots 1 through 34, inclusive, as shown on the plat entitled "Exempt Subdivision Plat for Cornerstone Venture Partners, Inc. and DJM-NC, LLC recorded in Map Book 76, Page 31 in the Office of the Register of Deeds, Pender County, North Carolina.

