



# AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF FOREST CREEK PROPERTY OWNERS ASSOCIATION

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

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

## **Contents**

<b>Article I – References and Definitions .....</b>	<b>2</b>
<b>Article II - Property Rights.....</b>	<b>4</b>
<b>Article III - Membership and Voting Rights; Directors’ and Officers’ Standards of Care .....</b>	<b>5</b>
<b>Article IV - Covenant for Maintenance and Assessments .....</b>	<b>6</b>
<b>Article V - Architectural Control.....</b>	<b>10</b>
<b>Article VI - Use and Improvements Restrictions.....</b>	<b>15</b>
<b>Article VII - Special Restrictions Regarding Woodpeckers .....</b>	<b>20</b>
<b>Article VIII - Easements .....</b>	<b>20</b>
<b>Article IX - Covenants of Owners and Association to Maintain Insurance Against Loss and to Rebuild.....</b>	<b>22</b>
<b>Article X - Right of First Refusal .....</b>	<b>23</b>
<b>Article XI - Indemnification of Board Members, Officers and Members of the ARC .....</b>	<b>24</b>
<b>Article XII - General Provisions.....</b>	<b>24</b>

This Amended and Restated Declaration of Covenants, Conditions and Restrictions is made on the date hereinafter set forth by and with the consent of at least seventy- five percent of the Members of the Forest Creek Property Owners Association, Inc., and Colony 9, LLC, as set forth below, and shall be effective upon recording with the Moore County, North Carolina Register of Deeds.

**Witnesseth:**

Whereas, an original Declaration of Covenants, Conditions and Restrictions of Forest Creek (“Declaration”) was filed on April 15, 1997, in Book 1259 at Page 60 of the Moore County Register of Deeds, imposing a common scheme of development on certain real property located in Moore County, North Carolina;

Whereas, the Declaration was subsequently amended via documents filed with the Moore County Register of Deeds on August 12, 1997, in Book 1294 at page 80; on October 17, 1997, in Book 1313 at Page 440; on October 31, 1997, in Book 1317 at Page 391; on December 23, 1997, in Book 1333 at Page 315; On January 30, 1998, in Book 1342 at Page 227; on January 30, 1998 in Book 1343 at Page 46; on July 28, 2000, in Book 1644 at Page 309; on August 29, 2001, in Book 1821 at Page 503; on November 14, 2001, in Book 1868 at Page 92; on May 17, 2004, in Book 2559 at Page 134; on December 29, 2004, in Book 2710 at Page 397; on April 26, 2006, in Book 3014 at Page 513; on May18, 2006, in Book 3028 at Page 538; on November 13, 2007, in Book 3328 at Page 527; on August 6, 2012, in Book 4063 at Page 501; on January 24, 2013 in Book 4147 at Page 504; and on July 20, 2017 in Book 4850 at Page 510;

Whereas, the original Declarant, Forest Creek Holding Company, LLC, assigned its rights to Forest Creek Investors, LLC, via an Assignment of Declarant Rights on September 10, 2012, with such Assignment being recorded in Book 4079 at Page 357;

Whereas, Forest Creek Investors, LLC assigned its rights to Colony 9, LLC via an Assignment of Declarant Rights Forest Creek Golf Club, recorded on April 10, 2019 in Book 5113 at Page 34 of the Moore County Register of Deeds;

Now, therefore, the Forest Creek Property Owners Association, Inc., by and on behalf of all of the Owners of Lots in the Planned Community known as Forest Creek (hereafter “Forest Creek”), declares that this Amended and Restated Declaration has been duly approved by the requisite vote of the voting Members of the Association, and Declarant, and hereafter this document shall be the “Declaration” that shall run with the real property and be binding on all parties having any right, title, or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall enure to the benefit of each Owner thereof.

## Article I – References and Definitions

### Section 1. Incorporation by Reference and Joinder by Declarant

- (a) The recitals above are incorporated by reference and constitute part of this Declaration as though fully set forth herein.
- (b) The entirety of the North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes (“the Act”), shall apply to the land bound by this Declaration, and its terms, as amended are incorporated by reference. To the extent that any provisions of the Declaration or Forest Creek Property Owners Association or Forest Creek Property Association By-laws conflict with the Act, the provisions of the Act shall apply.
- (c) Declarant joins in the execution of this document to exercise its right to subject certain real property owned by it, included on Exhibit A, subject to the terms of this Declaration as it may be amended.

### Section 2. Definitions

- (a) “Association” shall mean and refer to the FOREST CREEK PROPERTY OWNERS ASSOCIATION, INC., a North Carolina nonprofit corporation created pursuant to and existing under the terms of Chapter 55A of the North Carolina General Statutes, the Nonprofit Corporation Act.
- (b) “Building” shall mean and include, but shall not be limited to, both the main portion of a structure built for permanent use and all projections of or extensions thereof, including, but not limited to, swimming pools, patios, garages, outside platforms, canopies, decks, porches and outbuildings.
- (c) “By-laws” shall mean the By-laws of the Association as they now or may hereafter exist.
- (d) “Common Area” shall mean all real property located within the Property owned or maintained by the Association and specifically designated as “Common Area”, including but not limited to areas shown on any recorded plat of the Property as “Common Area” or as beautification easements, together with such facilities and Improvements as may be constructed thereon or any property leased by the Association, for the common use and enjoyment of the Members of the Association. Further, the Common Area shall include other real or personal property acquired by the Association in accordance with its By-laws if the same is designated as a part of the Common Area. Common Area may include any real property, with facilities and Improvements constructed thereon, which is located within the Forest Creek development and which benefits the Property, including but not limited to all private roads, bridges, walkways and buildings owned or leased by the Association.
- (e) “Condominium Unit” or “Unit” shall refer to the individual units created as part of any condominium development constructed within the subdivision Property. All Condominium Unit Owners shall be Members of the Association, as well as any sub-association or condominium association created to administer the affairs and maintenance of the

Condominium Units and any real property upon which the Condominium is located.

- (f) “Condominium Property” shall refer to any land unit or lot upon which any condominium building containing individual units is located.
- (g) “Declarant” shall mean and refer to Colony 9, LLC, its successors and assigns.
- (h) “Golf Course Lot” shall mean any Lot that abuts a golf course.
- (i) “Improvement” shall mean any structure or construction of any kind that alters the physical appearance of a Lot, including but not limited to, buildings, outbuildings, roads and driveways (other than those dedicated to public use), parking areas, fences, screening walls, retaining walls, loading areas, signs, utilities, lawns, landscaping and walkways located on Lots, together with any construction work or treatment done or applied to a Lot in connection therewith.
- (j) “Lot” shall mean and refer to any numbered plot of land shown upon any recorded subdivision plat or development plan of the Property.
- (k) “Member” shall mean and refer to every person or entity who holds membership with voting rights in the Association.
- (l) “Occupant” shall mean any person or entity who occupies, or who has the right to occupy, all or a part of any portion of the Property, whether such opportunity or right of occupancy is based on ownership, lease, license or easement.
- (m) “Owner” shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot or Condominium Unit, or any portion thereof, which is a part of the Property, but excluding those having such interest merely as security for the performance of any obligation.
- (n) “Property” shall mean and refer to all real property made subject to this Declaration, either in those previously recorded documents referenced above or which is later added under the provisions in Article XII, Section 5.
- (o) “Red-Cockaded Woodpecker” shall mean the Red-Cockaded Woodpecker (*Picoides borealis*) which is presently designated as an endangered species protected by federal law and habitats portions of the Property.
- (p) “Unimproved Lot” shall mean a Lot upon which no Building or Improvement has been constructed by an Owner or the Declarant.
- (q) “Village Home Lot”, “Estate Home Lot” and “Chanticleer Home Lots” shall be as shown on Exhibit B.

## **Article II - Property Rights**

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to those portions of the Common Area owned by the Association, which shall be appurtenant to and shall pass with the title to every Lot or Condominium Unit, whether or not referred to in any deed conveying title to any Lot or Condominium Unit, subject to the following provisions:

- (a) The right of the Association to suspend the voting rights of an Owner or Occupant for any period during which any assessment against their Lot or Condominium Unit remains unpaid;
- (b) The right of the Association to grant easements and right of way across or beneath all or any part of the Common Area to any public agency, authority, or utility;
- (c) The right of the Association, in accordance with its Articles and By-laws, to borrow money for the purpose of improving the Common Area and to mortgage, pledge or otherwise hypothecate any or all of its real or personal property as security for any such money borrowed.

### Section 2. Leases.

- (a) Any permitted lease agreement between an Owner and a lessee for the lease of an Owner's Property within Forest Creek shall provide that the term of the lease shall be subject in all respects to the provisions of this Declaration, as well as the Articles of Incorporation, By-laws and Rules and Regulations of the Association, and that any failure by the lessee to comply with the terms of those documents shall be a default under the term of the lease entitling the Owner to seek summary ejectment after the requisite notice and running of any applicable cure period; provided, however, in the event of a conflict with respect to leases and short-term rentals between the Declaration and the Articles of Incorporation, the By-laws of the Association or the Rules and Regulations, the provisions of the Declaration shall control.
- (b) Leases of Village Homes and Condominium Units shall be in writing and may be for a period of time less than six (6) months. All leases shall provide for the lease of the entire Lot or Unit and any Improvements located thereon or within. The availability of leases of these housing types may not be advertised by the Owner or by any agent of the Owner through or with the assistance of any type of media; provided, however, communications by Declarant to Forest Creek Golf Club Members, guests of Forest Creek Golf Club and to prospective Members of Forest Creek Golf Club relating to the availability of dwelling units for rent shall not be deemed advertising, and provided further that the Declarant may continue to operate through Colony 9, LLC, its business of renting homes in Forest Creek, including the current practices for marketing rental homes by any type of media if a high level of due diligence with respect to prospective home renters is be applied.
- (c) Leases of Estate Homes and Chanticleer Homes shall be in writing, shall be for a term of not less than six (6) months, and shall not provide for the lease of less than the entire Lot and all Improvements located thereon. Owners shall undertake reasonable efforts to assure the compatibility of their lessees with Members.

- (d) A copy of all leases with a term of one year or more shall be delivered to the Association immediately following execution by the parties. In addition, the Association (with the written consent of the Declarant with respect to dwelling units being built and sold by Declarant) may create Rules and Regulations that address day-to-day implementation of the leasing process allowed by this Section, including when and how Lots and Condominium Units within the Association may be advertised.

An exception to this Section shall apply to a three week period encompassing any United States Men's or Women's Open golf championship held in the Pinehurst area. For one week before, for the week of, and one week after the championship, short-term rentals of Village Homes, Estate Homes, Chanticleer Homes, and any other types of home or Condominium Units located within the Forest Creek community may be rented as otherwise provided for in this Section. US Open rentals shall be in writing. Lessors must inform Security of the names of their lessees to provide for front gate access.

Section 3. Delegation of Use. Owners may delegate, in accordance with the applicable By-laws, their rights of enjoyment of the Common Area and facilities to the members of their family, guests, tenants, or contract purchasers, provided that every such delegate shall reside upon the Property or be accompanied by the Owner. Certain facilities within the Forest Creek community are owned by the Forest Creek Golf Club and access to those facilities are not included with Association membership. Owners are responsible for the conduct of their family members', guests', tenants', and contract purchasers' use of the Common Area and facilities, and are financially responsible for any damages caused by their activities. The Association, in its sole discretion, may temporarily or permanently restrict such persons from the future use of the Common Area and facilities.

### **Article III - Membership and Voting Rights; Directors' and Officers' Standards of Care**

Section 1. Members. Every Owner of a Lot or Condominium Unit within the Property which is subject to a lien for assessments shall be a Member of the Association with full voting rights; provided, however, notwithstanding that Lots owned by the Declarant are not subject to the payment of assessments except as set forth in Article IV A Section 1 (b) (1) and (2), the Declarant shall have full voting rights for each Lot owned by the Declarant. There shall be one class of Members. Membership and voting rights shall be appurtenant to, and may not be separated from, ownership of any Lot or Condominium Unit which is subject to assessment; provided, however, that no such assignment shall affect the obligations of the Owner described in Article IV hereof. Each Owner of a Lot or Condominium Unit shall be entitled to voting rights consisting of one vote for each Lot or Condominium Unit owned. When more than one person holds an interest in any Lot or Condominium Unit, all such persons shall be Members. The vote or votes for such Lot or Condominium Unit shall be exercised as they among themselves determine, but in no event shall multiple Owners of a Lot or Condominium Unit be entitled to collectively cast more than the one vote for that Lot or Condominium Unit. The foregoing notwithstanding, with respect to the Unimproved Lots owned by the Declarant that have never previously been sold or are covered by the provisions of Article IV Section 1 hereof, the Declarant will not pay annual assessments on those Unimproved Lots but will still be allowed one vote for each such Unimproved Lot owned.

Section 2. Board of Directors. The business and affairs of the Association shall be managed by a Board of Directors of not less than seven Directors, each of whom shall be elected by a majority vote of the Members of the Association in accordance with its By-laws, which may also establish

appropriate term and term limits for directors. Directors shall be required to be Members of the Association. Directors shall conduct the associations' affairs, including Member meetings, notices thereof and any votes, in accordance with the law of North Carolina, as they may be amended from time to time. Directors shall discharge their duties as Directors and committee members: (1) in good faith; (2) with the care that an ordinarily prudent person in a like position would exercise in similar circumstances; and (3) in a manner the Director believes to be in the best interests of the Association. Directors are entitled to rely upon information, opinions and reports and statements, including financial statements and data, presented by Officers and employees of the Association, legal counsel, public accountants, other professionals and Association committees, if the Director reasonably believes them to be reliable and competent in the matters presented or professionals within their areas of expertise, and the Director does not have cause to believe otherwise.

Section 3. Officers. The Board shall, at a minimum, elect a President, Secretary and Treasurer, and may elect such other Officers as it deems appropriate. Their duties shall be designated in the By-laws. An Officer with discretionary authority shall discharge his/her duties under that authority: (1) in good faith; (2) with the care an ordinarily prudent person in a like position would exercise in similar circumstances, and; (3) in a manner the Officer reasonably believes to be in the best interests of the Association. Officers are entitled to rely upon information, opinions, reports or statements, including financial statements and data, presented by Officers and employees of the Association, legal counsel, public accountants, other professionals and Association committees, if the Officer reasonably believes them to be reliable and competent in the matters presented or professionals performing within their areas of expertise, and the Officer does not have cause to believe otherwise.

#### **Article IV - Covenant for Maintenance and Assessments**

##### Section 1. Creation of the Lien and Personal Obligation of Assessments.

- (a) Subject to the provisions of (b) hereinafter, each Owner of any Lot or Condominium Unit within the Forest Creek community, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) specials assessments for capital Improvements, such assessments to be established as necessary and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot or Condominium Unit against which each such assessment is made. Each assessment, together with interest, costs of collection, court costs and reasonable attorney's fees, shall also be personal obligation of the person who is the Owner of such Lot or Condominium Unit at the time when the assessment fee is due. The personal obligation for the delinquent assessments shall not pass to his successors in total unless expressly assumed by them.
- (b) Lots owned by the Declarant shall be assessed and subject to a lien for assessments, as follows:
  - (1) Declarant shall pay assessments in the manner outlined in section (a) above for any Lot owned by it which was previously sold to a third-party and which has now been repurchased by Declarant, or;

- (2) In the event a current Association Property Owner desires to exchange their Unimproved Lot with Declarant for another Unimproved Lot owned by Declarant, the exchange of Lots will not create a new assessments-paying Property Owner. Therefore, the Unimproved Lot received by Declarant in the exchange will become a non-assessments paying Lot, and the Unimproved Lot transferred by Declarant to the counter-party to the exchange will become the assessments paying Lot with respect to Association assessments. Ownership of a Condominium suite in the Clubhouse or a Condominium Unit that may be developed by Declarant is not eligible for the exchange treatment of this provision.
- (3) From and after the date of recordation of this Declaration, Declarant will be allowed to purchase and hold at any point in time as many as eighteen Unimproved Lots acquired from Association Property Owners (the "Repurchased Lots") with payment of the Association assessments for the Repurchased Lots being deferred for up to forty-eight months. At the earlier of the sale of a Repurchased Lot or the end of the forty-eight month suspension of assessments period (as determined from the date of each Lot's acquisition by Declarant), all deferred assessments on such Lot will become due. No interest will accrue on the assessments related to the Repurchased Lots during the period of deferral. In the event a Lot is held for more than forty-eight months, annual assessments will be due without further deferral. Such assessments deferral is exclusively granted to Colony 9 as the Declarant and to its successors in interest as a Declarant. The foregoing notwithstanding; (i) one or more Lots currently owned by Declarant, if any, which were acquired by the Declarant from a Member(s) of the Association prior to the Recordation Date shall not be classified as a Repurchased Lot and Declarant will not pay assessments on such Lots while such Lots are owned by Declarant, and; (ii) one or more Lots now owned or acquired by the Declarant after the Recordation Date in exchange for one or more Lots owned by a Member of the Association shall not be classified as a Repurchased Lot and Declarant will not pay assessments on such lots while owned by Declarant.
- (4) Condominium Units constructed by Declarant shall become subject to assessment as Improved Lots at such time as a Certificate of Occupancy is issued for such Unit in accordance with the Association's procedures for billing the initial assessment on an Improved Lot.
- (c) The Declarant, pursuant to the plan of development for the subdivisions, may construct, or cause to be constructed, and, if deemed appropriate or necessary by Declarant, dedicated to public use, necessary streets and roads to the Lots and Condominium Units and shall provide, or cause to be provided, either in the streets abutting a Lot and Condominium Property or in reserved utility easements, water, sewer, electric, and telephone service to each Lot and Condominium Property. The initial construction of such streets and the initial providing of such utility services to Lots and Condominium Properties shall be accomplished without cost or expense to the Association and shall not be subject to the lien and assessments rights described herein.

## Section 2. Purpose of Assessments.

- (a) The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the Owners and Occupants of the Property and in particular for the Improvement and maintenance of Properties, services and facilities devoted to this purpose or for the maintenance of the Common Area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Area, maintenance of streets, entrance areas and beautification easements which are part of the Common Area, the maintenance of water and/or sewer lines in and upon the Common Area, the procurement and maintenance of insurance in accordance with the By-laws, the payment of charges for any street lights located on the Property, the employment of attorneys and accountants to represent the Association when necessary, and such other needs as may arise.
- (b) All monies collected by the Association, including all fees, dues, fines or other payments authorized by this Declaration, 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 Property, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-laws of the Association. As monies for any assessment, fees or other payments are paid to the Association by any Lot Owner or the Declarant, the same may be commingled with monies paid to the Association by the Lot Owners or others. 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 his membership interest therein, except as an appurtenance to his Lot. When a Lot Owner shall cease to be Member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner of any share of the fund or assets of the Association 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 Property.

Section 3. Annual and Special Assessments, Special Fees for Excessive Use, Impact Fees and Improved Lot Fees.

- (a) The maximum annual assessment for the calendar year 2022 shall not exceed \$825.00 for each Unimproved Lot and \$1890.00 for each improved Lot.
- (b) The maximum annual assessment for the calendar year commencing January 1, 2023 and for each calendar year thereafter shall be established by the Board of Directors may be increased by the Board of Directors without approval by the membership by an amount not to exceed fifteen (15%) percent of the maximum annual assessment of the previous year.
- (c) The maximum annual assessment for the calendar year commencing January 1, 2023 and for each calendar year thereafter may be increased without limit by a vote of two-thirds of the vote by the Members who are voting in person or by proxy, at a meeting duly called for this purpose.

- (d) In addition the annual assessments authorized above, the Association may levy, at any time during any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of construction, reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, or for such other reasons as the Board of Directors may recommend, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes cast by the Members who are voting in person or by proxy at a meeting duly called for this purpose, in accordance with the procedure set forth in Section 4 below. The Declarant shall be subject to special assessment in the same manner as any other Owner.
- (e) Further, the Board of Directors shall have the authority, but not the obligation, to adopt and assess additional fees to Declarant; for excessive use or damage to those streets that are part of the Common Area: for extra demand on security personnel at the entrance gate related to Declarant's vehicular traffic, or; for excessive use of services provided to Members. Factors that the Board may consider shall include: usage in excess of 35% of average usage, as reasonably calculated by the Association; the need for additional security, maintenance or janitorial services to address additional usage, and; any increase in insurance costs related to such excessive usage. Any such assessment may be collected in the same manner as any other assessment under the terms of this Declaration and the Act.
- (f) The Board shall have the authority, but not the Obligation, to adopt and assess Owners an impact fee for damages, wear and tear to the Common Area caused by construction activities on their Property.
- (g) The Board of Directors shall have the authority, but not the obligation, to collect pro-rata improved Lot fees upon the issuance of a certificate of occupancy, with credit given for any pro-rata Unimproved Lot assessment already paid.

Section 4. Notice and Quorum for any Action Authorized Under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under this Article, through such means as are specified in the By-laws, shall be sent to all Members not less than ten days nor more than sixty days in advance of the meeting. Only those Members subject to the assessment at issue are entitled to vote, and quorum requirements shall be determined accordingly. At any such meeting called, the presence of Members or of proxies entitled to cast ten percent of the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty days following the preceding meeting.

Section 5. Date and Commencement of Annual Assessments. Due Dates.

- (a) The annual assessments provided herein shall be collected on an annual basis and shall commence as to each Lot or Condominium Unit on the first day of the first month following the conveyance of that Lot or Condominium Unit to the Owner.
- (b) At least thirty days in advance of each annual assessment period, the Board of Directors

shall fix the amount of the annual assessment to every Owner subject thereto. The due date shall be established by the Board of Directors and shall then be communicated to the membership at least thirty days in advance of the due date.

Section 6. Effect of Non-payment of Assessments; Remedies of the Association. Any annual or special assessment, dues or fee not paid within thirty days after the due date shall bear interest from the due date at an annual rate of eight percent, or the maximum amount allowed by law. 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 Lot or Condominium Unit in the same manner as prescribed by the laws of the State of North Carolina for the foreclosures of Deeds of Trust, and interest, costs of collection, court costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by abandonment of the Lot or Condominium Unit, nor shall damage to or destruction of any Improvements on any Lot or Condominium Unit, nor shall damage to or destruction of any Improvements on any Lot or Condominium Unit by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

Section 7. Subordination of the Lien to Mortgages. The liens provided for herein on any Lot or Condominium Unit shall be subordinate to the lien of any first mortgage or deed of trust on such Lot or Condominium Unit, but only as to assessments due and payable prior to a foreclosure sale. Sale or transfer of any Lot or Condominium Unit shall not affect the assessment lien or liens provided herein.

#### **Article V - Architectural Control**

Section 1. Purpose. The external design, appearance, use, location and maintenance of the Property and of Improvements thereon shall be regulated in the manner hereafter described so as to preserve the enhanced values and to maintain a harmonious relationship among structures and the natural vegetation and topography of the Property.

Section 2. Overview. The Board of Directors shall adopt architectural and landscape guidelines ("Board Guidelines" or "Guidelines") for the construction of Buildings, Condominiums and Improvements on all Lots or Condominium Property, including significant repairs, changes of paint color, plantings, excavations, changes in grade or other work, and other Projects that materially change the physical appearance of any Lot or Condominium Property from its original design or have a substantial impact on a neighbor (collectively "Project(s)"). Members shall be given the opportunity to comment on the Board Guidelines before they are adopted or amended. The Guidelines will be implemented by the Architectural Review Committee ("ARC"), as described in Section V 3 below.

The Association's and Declarant's Colony 9, LLC's shared objective is to make Forest Creek the premier golfing community in the Carolinas and beyond. This goal requires that we maintain high design, construction, and maintenance standards for our Buildings, Condominiums, Improvements and landscapes, and that the Guidelines establish the minimum, albeit high-quality objective standards in those regards, as well as baseline high-quality aesthetic expectations. They are intended to provide meaningful guidance to Owners, builders and contractors about acceptable designs,

building and landscape standards and the processes that must be followed to gain approval for Projects in a timely manner. No Project may proceed without ARC or Board approval.

The Board expects that plans submitted in accordance with the Guidelines will normally be approved by the ARC. Owners have made considerable investments in their Lots and should have reasonable latitude in designing their homes, but with the understanding that they have bought into a master planned community which imposes certain constraints on their options in order to preserve the overall design integrity and harmony of the community. It is therefore also the case that these Guidelines necessarily require the exercise of discretion by the ARC in the application of these standards to individual Projects. The Board's intent is that such discretion is (1) also to be exercised reasonably, giving due consideration to the desires and tastes of Owners, provided they are consistent with the Guidelines and the master plan, and that (2) the exercise of the ARC's discretion is never to be based on factors or opinions outside the bounds of the Board Guidelines. Owners should be able to reasonably rely on what is written there, and to not be surprised by unknown considerations.

Despite the foregoing, there may be rare cases where a design is presented that meets the Guidelines' objective criteria but may be rejected on purely aesthetic grounds. This might occur, for example, when an Owner proposes a design for an Estate Home with minimal design features and of little architectural interest. This is not in the best interest of the Association, and it is the Board's duty, and therefore the ARC's obligation, to reject such a plan. Where such is the case and the ARC unanimously rejects the design on purely aesthetic grounds, the Owner may immediately appeal the ARC's decision to the Board pursuant to Article V (p) below.

Every Owner, architect, builder and landscape architect who may be involved in a Project should familiarize themselves with the Guidelines. Before beginning any serious level of design work, Owners are encouraged to engage in early consultation with the ARC to assure their Project begins in a manner likely to gain quick approval.

The overall intent of the Guidelines is to maximize the compatibility of construction and landscaping with the natural beauty and topography of the land at Forest Creek and the quiet enjoyment of the game of golf on the two Forest Creek Golf Club courses. Upland Lots should preserve the longleaf pine and wire grass plant community as much as is reasonable. Wetlands, whether designated or not, should be preserved and emphasis placed on selectively pruning vegetation to create a natural garden. Most important, the existing soil structure needs to be preserved to allow percolation into the ground water aquifer.

Section 3. Architectural Review Committee. The Board of Directors shall designate three or more persons to serve as the ARC, for the express purpose of insuring compliance with the provisions of this Article. Only one member of the ARC may be Board member, but that person shall serve as the ARC's chair. In the event any member of the ARC fails in the Board's opinion for any reason to perform his or her duties properly, that person shall be removed and a replacement shall be selected by the Board.

Section 4. Design Approval Process.

- (a) The written approval required by Section 2 above shall be obtained by submitting to the ARC, in the manner set forth in the Board Guidelines, building plans, specifications and a

plot plan showing the proposed type of construction, exterior design and location of the residence (or other Improvement or alteration) for review and approval as to the compatibility, conformity and harmony of external design and consistency of plan with existing residences (and Improvements) on other Lots or Condominium Property in the subdivisions and as to the location of the structure with respect to topography and finished ground elevation. In addition, a landscape development plan or recreational development plan must also be submitted and approved by the ARC, and shall show the location of proposed recreational facilities, fences, boundary or patio walls, hedges, shrubbery, walkways, driveways, parking areas (which must provide for enclosed parking not less than two automobiles) and important trees. The plans and drawings submitted shall have been prepared in a 1/8th scale or larger, and shall contain, at a minimum:

- 1) Front, rear and side elevation
  - 2) Floor plan
  - 3) The area of heated floor space
  - 4) Exterior building material to include manufacturer, color and texture
  - 5) Exterior trim color
  - 6) Roofing material and color
  - 7) Site plan showing (on a scale of one to fifty or larger) foundation of all structures, walks, driveways, fences and drainage plans
  - 8) Landscaping plan of front yard, side yards and rear yards
  - 9) Estimated completion dates of all construction and Improvements
  - 10) Special treatment required to alleviate problems anticipated due to changes in topography
  - 11) The payment of all applicable fees per Board Guidelines.
- (b) The ARC Committee is vested with full authority to disapprove plans that are inconsistent with the Board Guidelines. The Board Guidelines shall specify that Estate homes maintain a distinct and differentiated appearance, while Village and Chanticleer homes maintain a consistent appearance. The Board Guidelines shall also prohibit any Project that would adversely affect a golf course or the playing of the game of golf on any adjacent golf course.
- (c) In the event that the ARC fails to approve, disapprove, or conditionally approve complete plans which comply with the requirements of subsection (a) above within forty-five days after they have been submitted to it, the approval of the ARC will be conclusively presumed, and this covenant will be deemed to have been fully satisfied.

- (d) Application for approval as required herein shall be made to the ARC at its principal office Forest Creek Property Owners Association, Attn: ARC, 200 Meyer Farm Drive, Pinehurst, NC 28374, or such other address as ARC may hereafter designate, and at the time such application is made, the Improvement, alteration or building plans, specifications, plot plans and landscape or recreational plans shall be submitted in duplicate.
- (e) Persons not having fee title to Lots or Condominium Property may apply for ARC permits, provided they have a sufficient contingent interest in the Property to warrant the ARC's commitment of time to review the Project and pay the applicable fees (see below).
- (f) Once an application has been submitted, its review shall be governed by the Guidelines in effect at the date of submission. Any subsequent Guideline revision shall not affect a Project already under review pursuant to prior Board Guidelines.
- (g) The Board shall have the right to adopt a schedule of fees related to architectural submissions and to revise that schedule from time to time. Such fees shall be appropriate to compensate the ARC for expert and administrative costs that may be incurred related to a submittal, as well as damages or excessive wear and tear that may result from the construction process. During any year, the Board of Directors, at the request of the ARC, may increase the review fee if it finds it reasonably necessary to do so. Such increases shall be no more than is necessary to cover the actual cost of performing the ARC's responsibilities. One copy of the plans and specifications will be retained by the ARC and other copy will be returned to the applicant with approval or disapproval plainly noted thereon.
- (h) Upon the approval of the ARC of any proposed construction or alteration, the ARC shall issue to the applicant a written permit. No construction or alteration shall be carried on until and unless a permit is obtained.
- (i) Upon the disapproval or conditional approval of any application, the ARC shall provide prompt written notice of the decision and the reason(s) for the decision. Within ten days of receiving that notice, the Owner may either settle his differences with the ARC, withdraw his application or file a notice of appeal with the Board.
- (j) Neither the Declarant, the Directors, Officers nor members of the ARC nor any person working on their behalf shall be liable for any costs or damages incurred by the Owner or any other party due to any mistakes in judgment, negligence or any other action undertaken in good faith, in a manner reasonably believed to be in the best interest of the Association in conjunction with the approval, conditional approval or disapproval of any plans or specifications. Each Owner and Occupant, and their successors and assigns, agree that they will not bring any action or suit against the Declarant, any Director, Officer or ARC member caused by the acts or omissions of the ARC, the Board, or their consultants. Each party submitting plans and specifications for approval shall be solely responsible for the sufficiency thereof, including protection of endangered species, and for the quality of construction performed pursuant thereto.
- (k) The Board of Directors is authorized to approve or ratify in the construction or alteration of

any Building or Improvement minor violations of any provisions of these restrictions relating to setback requirements, location, size of Improvements or similar matters if such approval or ratification shall be necessary to prevent undue hardship, and to waive or vary the provisions of this Declaration relating to use of the Lots or Condominium Property if, such waiver or variance: (1) would not be inconsistent with the intent and purpose of this Declaration; (2) would not violate any requirement of the Town of Southern Pines zoning requirements or building ordinances, and; (3) would not grant a side lot set back variance, unless the side lot at issue is a street. The approval or ratification by the Board of Directors in accordance with this paragraph shall be in recordable form and shall be binding on all persons.

- (l) All residence Buildings and Condominiums must be completed in a workmanlike manner and the construction site must be kept clean and free of debris at all times. Damage to any street, curve, gutter or sidewalk occurring during construction of any Improvement on a Lot or Condominium Property shall be promptly repaired by the Owner or his builders or contractor, as applicable. Should the Owner or Declarant fail to promptly repair or have repaired any such damage, the Association shall have the right to do so, and the cost of such repairs may be immediately assessed against and collected from the Owner or Declarant in the same manner as other assessments allowed under this Declaration.
- (m) In the event construction of any Building or Improvement is commenced on any Lot or Condominium Property in this subdivision and work is abandoned for a period of thirty days or longer, without just cause shown, or should any Building or Improvement remain unfinished for a period of one year from the date construction began, without just cause shown including a notation on the initial application for approval of plans, that more than one year will be required to complete construction of the structure, then and in either event the Association shall have: (1) the authority to complete the structure at the expense of the Owner and shall have a lien against the Lot or Condominium Unit and all Improvements to the extent of any monies expended for said completion, but said lien shall at all times be subordinate to the lien of any prior recorded mortgage or mechanic's lien (but the Association shall have the right to contest the validity and amount of such liens), or; (2) the authority to remove the Improvements from the Lot or Condominium Unit or Condominium Property, and the expense of said removal shall constitute a lien against the Lot or Condominium Unit, which lien shall be subordinate to the lien of any prior recorded mortgage or mechanic's lien. Said lien shall be foreclosed in the same manner as the procedure set forth in Article IV for the foreclosure of liens and assessments. No action shall be taken under this paragraph without written notice to the Owner of the Property, holder of any Deed of Trust on the Property or any lien holder of the proposed action to be taken and giving ten days in which to allow the Owner to show cause, if any he can, why the Association should not take action under this paragraph.
- (n) Each Lot Owner and his contractor, subcontractor and other agents shall take full responsibility for controlling surface water run-off and sediment which may adversely affect any other Lot or Condominium Property. Plans to control run-off and sediment must be submitted to the ARC, along with other required plans. Notwithstanding any plans which may be submitted, the ARC may make additional reasonable requirements of Lot Owners and Condominium Property owners to prevent or control excess run-off or sediment during

construction and for so long thereafter as such Improvements are in existence. However, responsibility for the surface water run-off will be that of the Lot Owner or Condominium Property Owner and not that of the ARC. If, following notice and opportunity for hearing, it is determined that a Lot Owner or Condominium Property Owner's construction activities are in violation of the North Carolina Sedimentation Control rules and regulations and are causing damage to any Common Area within Forest Creek as a result of increased surface water run-off, the Association may pursue fines, injunctive relief or other legal action as appropriate to address that damage. In the event of successful legal action by the Association, the Association shall have the right to recover all of its costs and expenses, including reasonable attorney's fees.

- (o) Each Lot Owner and Condominium Property shall be responsible for furnishing to his general contractor any rules and regulations adopted by the Association relating to security gates, speed limits, weekly site clean-up requirements and other similar matters.
- (p) Any Owner whose architectural submission is rejected by the ARC may appeal this decision to the Board of Directors. The Board shall establish specific procedures for the Board appeal process in the Board Guidelines, consistent with the following requirements: (1) the Owner must submit a written notice of appeal to the Board within ten days of a written rejection by the ARC or all or any portion of the application, or any conditional approval; (2) the Owner will have the option of submitting a written defense or appearing at a hearing; (3) at any hearing, the Owner shall have the rights to present evidence, witnesses, hear the ARC's presentations, and cross-examine its witnesses, including ARC members; (4) no party shall have a right to counsel at the hearing; (5) The Board may establish reasonable time limitations for the presentation of evidence, and; (6) the Board shall issue a final decision within forty-five days of the commencement of an appeal. Should the Board fail to do so, the Owner's appeal shall be granted. The Board's decision on an appeal is final.

#### **Article VI - Use and Improvements Restrictions**

Section 1. Use of Property. Each Lot and the residence and Improvements thereon, the Condominium Units and the Property upon which they sit, and the Common Area and facilities shall be for the following uses and subject to the following restrictions:

- (a) All Buildings and the Common Area and facilities shall be used for residential and related common purposes;
- (b) Each Single-Family Lot may not be subdivided and shall be used as a single-family residence and for no other purpose, except that the Declarant and others approved and designated by Declarant may use one or more Lots or residences for offices and/or model residences for sales purposes. Declarant shall also have the right to change the Lot lines of the Lots owned by the Declarant, by the recording of a map showing such revisions;
- (c) Lot size and set back requirements are both specified in the recorded maps incorporated herein by reference and in the Guidelines, as they may be amended from time to time.

Minimum square footage requirements are as follows:

1. Village Homes. One story - 1,800 heated square feet. Two stories - 2,000 heated square feet.
2. Estate Homes. One story - 2,600 heated square feet. Two stories - 2,200 heated square feet on the first floor and a minimum of 400 heated square feet on the second level.
3. Chanticleer Homes. One story - 1,800 heated square feet. Two stories - 2,000 heated square feet. All Chanticleer Homes shall have a minimum lot size of 0.35 acres.
4. Condominiums. Any condominium unit – 1,800 heated square feet.

Special consideration may be given for a variance to the minimum size requirements, based on the size, shape and topography of the Lot or Condominium Property.

- (d) All residences shall be set back from the front, side and rear Lot lines at least the minimum number of feet required by the setback lines shown on the recorded subdivision plat of the Lot and/or as required by the applicable zoning laws or subdivision regulations. All relevant plats and the master plan are listed in the recitals, incorporated into this Declaration by Article 1. Variances may be granted from set back requirements, provided that the variance is consistent with zoning requirements, and provided further that no side lot variance may be granted unless the “side lot” is a street.
- (e) Lots may be combined; provided, however, that Unimproved Lots may not be combined. Combination of an Unimproved Lot may only occur with an improved Lot. All Lot combinations must be approved by the Board and are subject to a Lot combination fee, which the Board is authorized to set and collect on behalf of the Association. The Owner of two or more adjacent Lots that meet the foregoing requirements shall have the right to combine two Lots into one Lot, or to combine three or more Lots into a smaller number of Lots than originally held, and in such event, the setback requirements shall then apply to the exterior perimeter of such new, larger Lot or Lots created by such a combining of Lots. The Owners shall thereafter pay assessments based on the number of Lots held after the combination and shall be entitled to cast votes based on the smaller number of Lots. The Owner of a Lot which has been created as a result of the combining of two original Lots into one Lot shall have the right to divide such a Lot so as to re-create the original Lots held by the Owner after approval by the Board and payment of a Lot division fee to the Association. In such an event, the setback requirements shall then apply to the exterior perimeter of the recreated Lots, and the Owners shall thereafter pay assessments based on the Lots held after the division and shall be entitled to cast votes based upon the separate Lots.
- (f) Condominium Units and other units or homes with a unified development scheme may be developed within the Forest Creek community. These Condominium Units and any other units or homes shall be subject to the recorded restrictions for those Properties, and the Association shall have the authority, but not the obligation, to enforce those restrictions in the same manner as any sub-association created for their administration; provided, however, that the Association shall not take any action against any Condominium Unit Owner for any violation of those restrictions unless and until written demand has been made to the sub-association and it has failed to act for a period of thirty days.

- (g) Nothing shall be kept and no activity shall be carried on in any Building or residence or within the Common Area and facilities which will increase the rate of insurance applicable to residential use for the Property or the contents thereof. No Owner shall do or keep anything nor cause or allow anything to be done or kept in his residence or within the Common Area and facilities which will result in the cancellation of insurance on any portion of the Property, or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the Common Area and facilities.
- (h) No immoral, improper, offensive or unlawful use shall be made of the Property, or any part thereof, and all valid laws, ordinances, and regulations of all governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Property.
- (i) Nothing shall be done in or to any residence or in, to, or upon any of the Common Area and the facilities which will impair the structural integrity of any Building, residence, or portion of the Common Area and facilities or which would impair or alter the exterior of any Building or portion thereof, except in the manner provided in this Declaration.
- (j) No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any part of the Property, except that the Declarant or those designated by Declarant may use any Lot or residence for sales or display purposes.
- (k) No Owner shall display nor cause or allow to be displayed to public view any sign, placard, poster, billboard, or identifying name or number upon any Lot, Unit, residence, Building or any portion of the Common Area and facilities, except as may be allowed by the ARC.
- (l) No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Area and facilities except at the direction or and with the express written consent of the Association.
- (m) The Common Area and facilities shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the residences, subject to any rules or regulations that may be adopted by the Association pursuant to its By-laws.
- (n) Any camper, boat, trailer or any vehicle or item not in daily use placed upon any Lot by the Owner must be stored at all times behind the closed doors of the garage of such Owner's residence. No such item(s) shall be placed anywhere on any Lot on which there shall not be a garage except for brief periods reasonably necessary to load or unload them, and no repairs to such items shall be conducted upon any Lot except in the garage.
- (o) Any and every container used to store garbage, refuse and debris until collected by public or private waste disposal service shall be stored on each Lot or Condominium Unit so that

it shall be out of sight from all streets.

- (p) All fuel oil and natural gas tanks or containers shall be buried underground in a manner consistent with normal safety precautions and environmental regulations.
- (q) No animals shall be kept, maintained or quartered on any Lot or Condominium Unit or any portion of the Property except that cats, dogs and other animals that are typically kept as household pets may be kept. No more than three animals that spend any portion of their time living outside of a dwelling may be kept on any Lot. No animal may be kept for any commercial purpose. All animals shall be kept in fenced areas or on leashes under the immediate control of a responsible person, if not within the home, and each Owner shall be responsible for the prompt disposal of all excrement or debris of any kind resulting from any pets owned or maintained by such Owner on his property. No animal may be kept in an outside kennel or “dog run,” or kept outside on a leash tied to anything or any structure.
- (r) Property Owners will be required to keep tall shrubbery or hedges trimmed to reasonable limits so that air circulation or views from surrounding improved Lots or Condominium Units will not be adversely affected and so traffic hazards will not be created. Further, all Owners shall be required to maintain their Lots and any Improvements thereon at all times in a neat, attractive and presentable manner so as not to detract from the overall appearance of the subdivision or the surrounding Property. Lawns shall be regularly treated and mowed to maintain a uniform, tidy appearance, free of weeds or dead or diseased spots. The ARC shall have the right, but not the obligation, to adopt detailed lawn and landscaping rules for the improved and Unimproved Lots. In the event that any Owner or sub-association fails to maintain their Property as required, the Association shall have the right to enter that Property and undertake maintenance, and charge all costs related to same to the Owner or sub-association as a special assessment on their Property.
- (s) Provisions must be made by the Property Owners for off-street parking of their own cars and those belonging to guests, invitees, Declarant and Association employees. Vehicles must be parked when not in use in a garage, in any driveway or parking space associated with the Property or in other locations as may be approved by the ARC. The Board of Directors may adopt rules and regulations for the use of the private roadways, including restrictions or prohibitions regarding on-street parking and other rules related to street usage.
- (t) No motorcycles, motorbikes, minibikes, dirt bikes, go-carts or other similar vehicles, or scooters, hover boards, skateboards, private golf carts, four- or three-wheelers shall be operated on any Lot or on within the Forest Creek community on any Common Area, or on the private roads. Only those golf carts owned by the Golf Club may be operated within the community. Golf carts may only be operated when utilized and in place to facilitate playing the game of golf. Golf players may not operate Golf Club golf carts on private property to recover golf balls. This prohibition does not apply to yard maintenance equipment, such as lawn mowers or small lawn tractor, or maintenance equipment owned or leased by the Forest Creek Golf Club utilized to provide maintenance services to the Properties.
- (u) All persons operating motor vehicles at Forest Creek are required to comply with posted speed limits. The Board may also establish other Traffic Regulations regarding the operation

of motor vehicles at Forest Creek which shall be made available to all Members if and when promulgated. The Board of Directors may establish fines and such other penalties as may be appropriate for violations of speed limits and Traffic Regulations. The Association shall have the right, through the Board of Directors, to establish enforcement mechanisms for the violation of speed limits and Traffic Regulations, including without limitation, the assessment of fines which shall be collected as an individual Assessment from Owners, the removal of vehicles from the Property, and the suspension of an Owner's rights and easements of enjoyment. Those who violate speed limits or Traffic Regulations shall be entitled to notice and a hearing before the Board or a sub-set of the Board prior to the imposition of any fine or other penalty.

- (v) No mailboxes shall be placed upon the Lots or Condominium Units in the development, but arrangements will be made for a pick-up and delivery site at the guardhouse.
- (w) No outside antennae and no satellite dishes larger than one meter in diameter shall be allowed on any Lot or Condominium Unit. Owners must shield any outside antennae or satellite dishes from the view of any other Lot, Condominium Unit or the golf course where possible with appropriate landscaping.
- (x) No tree having a trunk diameter of six inches or more shall be removed or relocated on any Lot without prior written approval of the ARC. Provided, however, that any tree which falls in a storm or other casualty event may be immediately removed by the Owner.
- (y) No tennis courts shall be constructed on any Lot subject to this Declaration.
- (z) No chain link fence shall be constructed on any Lot subject to this Declaration.
- (aa) Reserved.
- (bb) Property Owners may display the Flag of the United States and the Flag of the State of North Carolina on their Lots provided that the flags are no larger than four feet by six feet and on free standing flag poles not higher than twenty feet. No other types of flags may be displayed on free-standing flag poles. Flags no larger than four feet by six feet may be displayed from standards not longer than six feet on residences or garages, including only the flags of the United States, North Carolina, other states of the United States, universities or some other collegiate institutions, the flags of other nations, or U.S. military flags.
- (cc) Political signs or flags of any nature may not be displayed by Property Owners on their Lots or Condominium Units at any time, including on the inside or windows.

Section 2. Quiet Enjoyment. No obnoxious or offensive activity, including activity which creates loud or offensive noises which would constitute a violation of any local noise ordinance, shall be carried on upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance to residents within the Property. The Association shall have the right to pursue enforcement of a violation for noise that would constitute a violation of any local noise ordinance.

Section 3. General Exterior of Improvements. Architectural styles of the Improvements are not

restricted, but the plans must illustrate superior design and require quality materials and workmanship. Inferior design and materials will not be approved.

#### **Article VII - Special Restrictions Regarding Woodpeckers**

Section 1. All Property subject to this Declaration is hereby declared to be a bird sanctuary for the Red-Cockaded Woodpecker.

Section 2. The Red-Cockaded Woodpecker is an endangered species protected by federal law. It lives in mature pine forest and required bloom pine trees one hundred years or older for cavity sites which are used for nesting and roosting. Active cavity trees located on the Property may not be destroyed or damaged. Permission to remove an inactive cavity tree may be obtained from the Division of Law Enforcement, U.S. Fish and Wildlife Service, Raleigh, North Carolina. Dead cavity trees may not be removed from the Property for at least six months following the death of such trees. The Association has been advised that all trees located on the Property serving as cavity trees for the Red-Cockaded Woodpecker have been marked with numbered aluminum tags and metal signs stating, "Endangered Species Sites, Red-Cockaded Woodpecker; Do Not Cut Tree", but it is the responsibility of the Lot Owner to determine if cavity trees are located on his or her Lot.

Section 3. All driveways and residences shall be constructed and located so as to minimize the loss of pine trees over ten inches in diameter at breast height and flat-topped pines where possible. Other pine trees over six inches in diameter at breast height and over thirty years old will not be cut without prior written approval of the Association.

Section 4. All cavity trees and potential cavity trees will be protected during construction or residences and driveways by means of erecting temporary fences. Such fences will extend at least to the radius of the crown of individual trees. The soil located within the radius of the crown of the trees will not be disturbed, and soil disturbance elsewhere on the Lot in general will be minimized to the extent possible.

Section 5. A radius of not less than fifty feet around each cavity tree shall be maintained so that it will be kept free of all vegetation of more than three feet in height except for pine trees more than thirty years old. Bird feeders, bird houses and bird baths shall not be placed within fifty feet of a cavity tree. If so requested by the Association or if required by the Division of Law Enforcement, U.S. Fish and Wildlife Service, a Lot Owner will allow the placement of cavity restructures on cavity trees so as to prevent access to, or modification of, cavities by competing species.

Section 6. Cavity trees shall not be sprayed with pesticides without prior approval of a State or federal endangered species biologist.

#### **Article VIII - Easements**

Section 1. Walks, Drives, Parking Areas, and Utilities. The Common Area shall be subject to a perpetual non-exclusive easement or easements in favor of all Owners of Lots and Condominium Units for their use and the use of their immediate families, guests, invitees, tenants or lessees for all proper and normal purposes and for ingress and egress and regress to and from such easements for

driveways, walkways, parking areas, water lines, sewer lines, storm drainage facilities, gas lines, telephone and electric power lines, television cable or antenna lines, and other public utilities established either before or after the subjecting of the Property to the Declaration by the Declarant or its successors in title and for the use of the Owners, their families, guests and tenants. The Declarant hereby expressly reserves the right to grant and/or create any such easement subsequent to the date hereof in the event the necessity of such shall subsequently become apparent due to the development of the Property. The Association shall have the power and authority to grant and to establish in, over, upon and across the Common Area conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property. Further, the Association shall have the right at any time to enter upon any landscape, utility or other easement as shown on any recorded subdivision plat of the Property and/or established pursuant to this Declaration for the purposes of maintaining the same and to cross such other portions of the Property as may be reasonably necessary to carry out such maintenance.

All streets shall be subject to a perpetual non-exclusive easement or easements in favor of all Owners of Lots and Condominium Units for their use and the use of their immediate families, guests, invitees, tenants or lessees.

Section 2. Golf Course. Easements to permit the doing of every act necessary and proper to the playing of golf on the golf course adjacent to the Lots and Condominium Units (which term shall also be deemed to include the Common Area) which are subject to those restrictions are hereby granted and established over these Lots and the Properties upon which the Condominium Units are located. These acts shall include the recovery of golf balls from Lots and Condominium Properties, the flight of golf balls over and upon Lots and Condominium Properties, the use of necessary and usual equipment upon the golf courses, the usual and common noise level created by the playing of the game of golf, together with all other common and usual activity associated with the game of golf and with all the normal and usual activity associated with the operation of a golf club. With respect to registered players or their caddies, they; (1) shall not be entitled to enter Lots or Condominium Properties with a golf cart or other vehicle; (2) may not spend more than three minutes on Lots or Condominium Properties searching for their golf ball; (3) may not play a ball from private property but must instead take relief in accordance with the local rules, and; (4) may not enter into and upon any structure thereon or in any way commit a nuisance while on Lots or Condominium Property. Nothing herein contained shall relieve any person from liability for property damage or injury done as a result of the use of the golf course by that person. All Owners of Lots or Condominium Units shall be obligated to refrain from any action which would detract from the playing qualities of the golf course or the development of an attractive overall landscaping plan for the entire golf course area. Such prohibitive action shall include, but are not limited to, such activities as entering upon the golf course for any purpose other than playing of golf pursuant to the rules and regulations of the golf club, burning of trash on a Lot or Condominium Property when smoke would cross into the fairway, the maintenance of dogs or other pets on a Lot or Condominium Property under conditions interfering with play due to their loud barking, running on the fairways, picking upon balls, or other like interferences with play.

Section 3. Encroachments. All Lots, or Condominium Properties and the Common Area shall be subject to easements for the encroachment of initial Improvements constructed on adjacent Lots by the Declarant to the extent that such initial Improvements actually encroach, including, without limitation, such items as driveways and walls. If any encroachment shall occur subsequent to

subjecting the Property to the Declaration as a result of settling or shifting of any Building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same. Every Lot shall be subject to an easement for entry and encroachment by the Declarant for a period not to exceed eighteen months following conveyance of a Lot to an Owner for the purpose of correcting any problems that may arise regarding grading and drainage. The Declarant, upon making entry for such purpose, shall restore the affected Lot or Lots to as near the original condition as practicable.

Section 4. Emergencies. Every Lot, Condominium Property and residence shall be subject to an easement for entry by the Association (and the Declarant only with respect to emergencies involving the golf courses) for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot or within any residence and that endangers any Building or portion of the Common Area.

Section 5. Declarant Access Easement. Declarant is granted and shall have a permanent, perpetual, non-exclusive access easement (the "Access Easement") over and across those roads and the Common Area as shown on the various recorded plats of Lots and the various recorded plats of other Property within the Forest Creek community, including the unfettered right to pass through the entrance gate to Forest Creek when utilizing the Access Easement; provided, however, that such Access Easement shall be subject to the following terms and conditions:

- (a) The Access Easement shall be for the benefit of the Declarant and its successors, assigns, licensees, agents, employees, vendors, members, guests, and invitees and its and their respective heirs, successors and assigns including but not limited to any future owners of the Golf Course Facilities (the "Permitted Users");
- (b) The Access Easement shall be utilized by the Permitted Users for the following purposes:
  - (i) for access to and from the Forest Creek Club House, Golf Courses and related facilities, including for those activities associated with the operation of Forest Creek Golf Club's golf courses and amenities all of which are owned by the Declarant (collectively the "Golf Course Facilities"), and;
  - (ii) for access to and from the current residential suites located in the Clubhouse and any Condominium Units that may be constructed;
- (c) The Access Easement shall not be utilized in connection with any hotel or motel which may in the future be located within the Forest Creek Development;
- (d) Notwithstanding any provision in the Declaration or in the Amended Declaration to the contrary, those provisions of the Amended Declaration relating to the Access Easement may not be revoked, modified, amended or otherwise changed without the express written consent of Declarant or its successors in interest.

**Article IX - Covenants of Owners and Association to Maintain Insurance Against Loss and to Rebuild**

Section 1. The Declarant covenants with the Association on behalf of itself and on behalf of each subsequent Owner of a Lot within the Property, and each Owner of any Lot within the Property, by acceptance of a deed therefor, whether or not it shall be so expressed in said deed, is deemed to

covenant:

- (a) The Association shall obtain a general all-peril public liability policy and a blanket insurance policy equal to the full replacement value of any and all/or all Improvements constructed upon the Common Area. Said policy shall contain a replacement cost endorsement providing for replacement of a structure from insurance loan proceeds, and said policy shall be consistent with the requirements of any mortgage or financing agreements to which the Common Area and any Improvements thereon may be subject;
- (b) The Association shall apply the full amount of any insurance proceeds to the rebuilding or repair of any said Improvement, subject to the concurrence of any mortgage or lienholder having a right to control the application of such proceeds;
- (c) Premiums for the group or blanket hazard insurance policy and the general public liability policy shall be a common expense and shall be collectible in the same manner and to the same extent as provided for annual and special assessments in Article IV;
- (d) Any Owner shall, at his own expense, carry adequate hazard and homeowner's insurance policies insuring the residence and all other insurable Improvements on his Lot;
- (e) In the event a dwelling is damaged or destroyed, and the Owner does not begin repair or reconstruction within thirty days following the damage or destruction (or such longer period as is required to resolve insurance claims), he or she shall remove or cause to be removed, at his or her expense, all debris from the Lot, so that it shall be placed in a neat, clean and safe condition, and; if owner fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the dwelling until paid by the Owner and may be foreclosed in the same manner set forth in Article IV for liens for assessments;
- (f) Any dwelling which has been destroyed in whole or in part by fire or other causality and is subsequently restored or reconstructed shall be subject to the provisions of this Declaration.

#### **Article X - Right of First Refusal**

Section 1. Offer. In the event the Owner of any Unimproved Lot or Condominium Unit shall desire to sell or convey his Unimproved Lot or Condominium Unit, then and in that event the Declarant, its successors and assigns, shall have the right and privilege to purchase the Unimproved Lot or Condominium Unit at the highest bona fide price offered therefore, and upon the same terms and conditions of such offer or proposal. Notice of said bona fide offer of sale or conveyance, or said proposal of sale or conveyance, shall be given by the Unimproved Lot or Condominium Unit Owner to Declarant in writing by certified mail addressed to Colony 9, LLC, 200 Meyer Farm Drive, Pinehurst, NC 28374, or at such other address as Declarant, its successors or assigns shall designate, and Declarant shall have thirty days from and after the receipt of said notice in which to exercise the option to purchase. In the event said option is not exercised within this time, the Unimproved Lot or Condominium Unit Owner shall be free to sell the same, but not at a lower price nor at more favorable terms than the price and terms communicated to Declarant, and not at a later time than one year after the failure of Declarant to exercise the option given it.

Section 2. Inter-family Transfers. Any Unimproved Lot or Condominium Unit Owner may sell or convey his Unimproved Lot or Condominium Unit to his spouse, to his lineal descendant, or to a corporation, all classes of stock of which are more than eighty percent owned by such Owner, his spouse and his lineal descendants, without first offering said lot or Condominium Unit for sale to Declarant as provided above.

Section 3. Mortgage. Any Unimproved Lot or Condominium Unit Owner may convey his Lot or Condominium Unit by mortgage or deed of trust for the purpose of obtaining a bona fide loan to be secured by such lot or Condominium Unit without first offering said Lot for sale to Declarant as provided above; provided, however, that in the event of a foreclosure of such mortgage or deed of trust by the holder thereof, a copy of the notice of sale shall be delivered to Declarant at least twenty days prior to the date of the sale.

#### **Article XI - Indemnification of Board Members, Officers and Members of the ARC**

Section 1. Indemnification: Although actions taken by Directors and Officers in accordance with the standards in Article III Sections 2 and 3 above may be found to be immune from monetary liability pursuant to N.C.G.S. 55A-8-60, the Association's policy is to ensure that its non-compensated Board members, Officers and ARC members ("Indemnitees") are indemnified from and against any and all liability to the maximum extent allowed by law. This policy includes a commitment by the Association to indemnify, defend, and hold harmless Indemnitees from all costs, expenses, and liabilities, including attorney's fees, resulting from the acts or omissions of Indemnitees in discharging their duties under this Declaration, unless N.C.G.S. 55A-8-51(d), 55A-8-57(a) or some other provision of North Carolina specifically prohibits indemnification for the claim at issue. This indemnification extends to any proceeding in which an Indemnitee becomes involved because of being or having been a Director, Officer or member of the ARC. In the event a claim for reimbursement or indemnification is based on a settlement, the Board must approve the settlement as being in the best interest of the Association before approving the indemnification or reimbursement. The Board in its discretion may extend the Association's indemnity commitment to the Association's employees and agents.

Section 2. Insurance: The Board of Directors shall investigate, analyze and obtain reasonable levels of insurance to offset the risks of the Association's indemnity obligations.

#### **Article XII - General Provisions**

##### Section 1. Enforcement.

- (a) The Association, and any Owner or Occupant, 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 the Declaration. If the Association or an Owner or Occupant is successful in any such proceeding brought to enforce the provisions of this Declaration or any lien provided for herein, such successful party shall be entitled to recover from the defendant or defendants all costs and attorneys' fees reasonably incurred in such proceeding. Failure by the Association or by an Owner to enforce any

covenant or restriction herein contained shall in no event be deemed a waiver of the right to request to do so thereafter. The Association shall have the right to request law enforcement, public safety and animal control Officers come on the Property to facilitate the enforcement of the laws, codes and ordinances of any governmental authority. The Association shall also have the right to maintain Lots and Condominium Units, at the expense of the Owner, as set out herein.

- (b) The Association shall further have the right to issue fines, after notice and opportunity for hearing consistent with the terms of the Act. Any fines assessed shall become assessments due against the real property within the community and may be collected in the same manner as any other assessment.

In the event an Owner fails to maintain his Lot as required by Article VI, Section 1 (r), the Association shall have the right, exercisable in its sole discretion, to mow, burn or clear any weeds, grass, underbrush or unsightly debris and/or growths from any Lot deemed by the Association to detract from the overall appearance of the subdivision or the surrounding Property as well as the right to distribute pine straw as ground covering on any Lot to approve the appearance of such Lot as deemed necessary by the Association; provided, however, that at least fourteen days prior notice shall be given by the Association to the Lot Owner before any work is done by the Association. Such entry by the Association shall not be deemed a trespass.

- (c) In the event the Association, after such notice, causes the work to be done, the costs of that work, together with the interest thereon at the maximum rate permitted by the civil usury laws of the State of North Carolina, shall be charged to the Owner and shall become a lien on the subject Lot or Condominium Unit, which lien shall be enforceable in the same manor set out in this Declaration for the enforcement of Assessments.

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

Section 3. Term, Amendments. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty years from the date of this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten years. Thereafter, amendments shall be by instrument approved by Members holding not less than seventy-five percent of the Associations voting power. No amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. Any amendment must be properly recorded.

Section 5. Extension of Covenants to Include Additional Property. Declarant may at any time make a subject to this Declaration other properties now or hereafter owned by Declarant or the Association by executing an instrument in writing applying this Declaration to such other Properties and by recording the same in the Register of Deeds Office for Moore County. Upon such recordation; (1) this Declaration shall run with the Property already subject thereto and with such additional Property as if such Declaration had always applied to all of said land from the date of its inception' and; (2) whenever thereafter in construing this Declaration, reference is made to the "Property," said term shall mean and include not only the Property described in Exhibit A hereto, but also such additional

Properties as may be subject to this Declaration.

IN WITNESS WHEREOF, the President of the Forest Creek Property Owners Association, Inc., by and with the consent of the requisite number of Owners of Property in the Forest Creek development, executes this document as of the date shown below. Declarant enters into the execution of this document to consent to the changes herein and exercise its right to add additional property as noted herein.

(The remainder of this page has intentionally been left blank; signature pages follow)

This the            day of   , 2022.

FOREST CREEK PROPERTY OWNERS ASSOCIATION, INC.

President

STATE OF NORTH CAROLINA  
COUNTY OF

I,            (printed name of Notary), a Notary Public for said County and State, certify that (name) personally came before me this date and acknowledged that s/he is the President of the Forest Creek Property Owners Association, Inc., and as its President, has executed this Amended and Restated Declaration with full authority to do so.

Witnesseth my hand and official seal, this the            day of           , 2022.

(SEAL)  
Notary Public Signature  
My Commission Expires:

This the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

COLONY 9, LLC

Manager

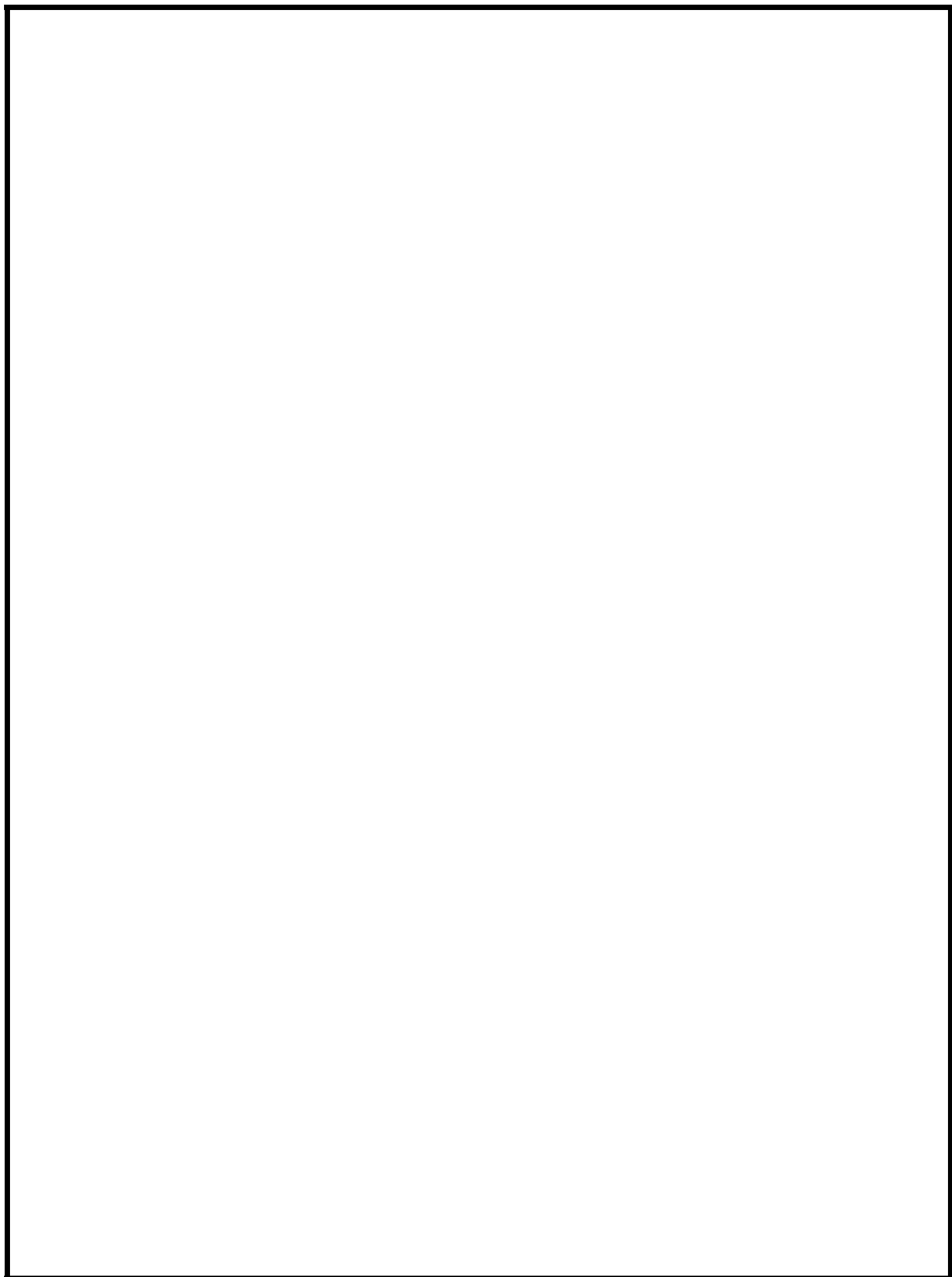
STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_ (printed name of Notary), a Notary Public for said County and State, certify that \_\_\_\_\_ (name) personally came before me this date and acknowledged that s/he is a manager of Colony 9, LLC., and in this capacity has executed this Amended and Restated Declaration with full authority to do so.

Witnesseth my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

(SEAL)

Notary Public Signature  
My Commission Expires:



## Exhibit A

This Declaration shall apply to all those lots shown on the following maps:

Phase 1, Section 2, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore Country Register of Deeds, in Plat Cabinet 6, Slide 509, to which recorded map reference is made for a further and more complete description.

Phase 1, Section 4, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore Country Register of Deeds, in Plat Cabinet 6, Slide 510, to which recorded map reference is made for a further and more complete description.

Phase 1, Section 6, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore Country Register of Deeds, in Plat Cabinet 6, Slide 511, to which recorded map reference is made for a further and more complete description.

Phase 1, Section 3, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore Country Register of Deeds, in Plat Cabinet 6, Slide 639, to which recorded map reference is made for a further and more complete description.

Phase 1, Section 5, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore Country Register of Deeds, in Plat Cabinet 6, Slide 793, to which recorded map reference is made for a further and more complete description.

Phase 1, Section 7, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore Country Register of Deeds, in Plat Cabinet 6, Slide 836, to which recorded map reference is made for a further and more complete description.

Phase 1, Section 8, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore County Register of Deeds, in Plat Cabinet 7, Slide 186, to which recorded map reference is made for a further and more complete description.

Phase 1, Section 9, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore County Register of Deeds, in Plat Cabinet 7, Slide 187, to which recorded map reference is made for a further and more complete description.

Phase 1, Section 10, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore County Register of Deeds, in Plat Cabinet 7, Slide 188, to which recorded map reference is made for a further and more complete description.

Phase 1, Section 12, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore County Register of Deeds, in Plat Cabinet 7, Slide 189, to which recorded map reference is made for a further and more complete description.

Phase 1, Section 11, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore County Register of Deeds, in Plat Cabinet 7, Slide 218 to

which recorded map reference is made for a further and more complete description  
Phase 1, Section 13, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore County Register of Deeds, In plat Cabinet 8, Slide 790, to which recorded map reference is made for a further and more complete description

Lot 1338, phase 1, Section 13, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore County Register of Deeds, In Plat Cabinet 9, Slide 17, to which recorded map reference is made for a further and more complete description.

Lots 1438 and 1439, Section 14, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore Country Register of Deeds, in Plat Cabinet 11, Slide 535.

Section 14, of Forest Creek Golf Course Development, as shown on a plat of the same duly recorded in the Office of the Moore Country Register of Deeds, in Plat Cabinet 11, Slide 551.

Section 15, Lots 1501-1549, of Forest Creek Golf Course for Forest Creek Holding Company, as shown on plats of the same duly recorded in the Office of the Moore County Register of Deeds, in Plat Cabinet 12, Slides 125-128.

Section 16, Lots 1601-1660, of Forest Creek Golf Course for Forest Creek Holding Company, as shown on plats of the same duly recorded in the Office of the Moore County Register of Deeds, in Plat Cabinet 13, Slides 217-219.

Section 17, Plat Re-Recorded to Change Lot Number Sequence and Owner's Name, as shown on a plat of the same duly recorded in the Office of the Moore County Register of Deeds, in Plat Cabinet 14, Slide 438.

Section 18, Lots 1801-1861, of Forest Creek Golf Course Development for Forest Creek Holding Company, LLC, as shown on a plat of the same duly recorded in the Office of the Moore Country Register of Deeds, in Plat Cabinet 14, Slides 17-18.

Section 19, of Forest Creek for Forest Creek Holding Company, LLC, as shown on a plat of the same duly recorded in the Office of the Moore County Register of Deeds, in Plat Cabinet 14, Slide 173.

Section 19, Recombination Map for Lots 1920-1025, of Forest Creek for Forest Creek Holding Company, LLC, as shown on a plat of the same duly recorded in the Office of Moore County Register of Deeds, in Plat Cabinet 14, Slide 299.

EXHIBIT A-1

FOREST CREEK SECTION ONE

A CERTAIN TRACT OR PARCEL OF LAND LYING ON THE EAST SIDE OF MEYER FARM DRIVE AND FRONTING ON THE SOUTH LINE OF FOREST CREEK DRIVE IN THE COMMUNITY OF FOREST CREEK DESCRIBED AS FOLLOWS;

BEGINNING AT AN IRON STAKE IN THE SOUTH LINE OF FOREST CREEK DRIVE NEAR THE INTERSECTION OF FOREST CREEK DRIVE WITH MEYER FARM DRIVE, SAID BEGINNING CORNER BEING LOCATED S04°22'40"E 65.58 FEET FROM AN IRON STAKE IN THE NORTH LINE OF FOREST CREEK DRIVE; RUNNING THENCE FROM THE BEGINNING AS THE SOUTH LINES OF FOREST CREEK DRIVE AS A CURVE TO THE LEFT HAVING A RADIUS OF 429.76 FEET, AN ARC DISTANCE OF 409.81 FEET, A CHORD OF N 81°04'34"E 394.46 FEET TO AN IRON STAKE; THENCE N 53°45'28"E 247.07 FEET TO AN IRON STAKE; THENCE AS A CURVE TO THE RIGHT HAVING A RADIUS OF 265.85 FEET, AN ARC DISTANCE OF 169.07 FEET, A CHORD OF N 71°58'37"E 166.24 FEET TO AN IRON STAKE; THENCE S 89°48'15"E 30.98 FEET TO AN IRON STAKE; THENCE AS A CURVE TO THE LEFT HAVING A RADIUS OF

176.76 FEET, AN ARC DISTANCE 74.01 FEET, A CHORD OF N 78°12'03"E 73.47 FEET TO AN IRON STAKE AT THE INTERSECTION OF THE SOUTH LINE OF FOREST CREEK DRIVE WITH THE PARKING AREA DRIVEWAY; THENCE ALONG THE PARKING AREA DRIVE THE

FOLLOWING CALLS, S 48°59'32"E 91.42 FEET TO AN IRON STAKE; THENCE AS A CURVE TO THE LEFT HAVING A RADIUS OF 380.93 FEET, AN ARC DISTANCE OF 314.90 FEET, A CHORD OF S 72°40'28"E 306.01 FEET TO AN IRON STAKE; THENCE AS A CURVE TO THE LEFT HAVING A RADIUS OF 217.50 FEET, AN ARC DISTANCE OF 29.37 FEET, A CHORD OF N 79°46'30"E 29.35 FEET TO AN IRON STAKE; THENCE AS A CURVE TO THE LEFT HAVING A RADIUS OF 333.95 FEET, AN ARAC DISTANCE OF 97.26 FEET, A CHORD OF N 67°33'48"E 96.91 FEET TO AN IRON STAKE; THENCE LEAVING THE DRIVEWAY S 29°08'01"E 30.52

FEET TO AN IRON STAKE; THENCE S 34°44'13"W 258.76 FEET TO AN IRON STAKE; THENCE S 49°57'35"E 179.69 FEET TO AN IRON STAKE; THENCE S 60°24'42"W 181.17 FEET TO AN IRON STAKE, A CORNER OF LOT 713, SECTION 7, FOREST CREEK GOLF COURSE DEVELOPMENT; THENCE AS THE LINES OF SECTION 7 N66°16'54"W 168.75 FEET TO AN IRON STAKE; THENCE S85°20'40"W 428.68 FEET TO AN IRON STAKE; THENCE S 34°40'00"W 529.64 FEET TO AN IRON STAKE; THENCE LEAVING SECTION 7, S 69°17'38"W

163.00 FEET TO AN IRON STAKE IN THE EAST LINE OF A BUFFER ALONG MEYER FARM DRIVE; THENCE AS A CURVE TO THE RIGHT, HAVING A RADIUS OF 560.59 FEET, AN ARC DISTANCE OF 95.11 FEET, A CHORD OF N 03°07'27"W 94.99 FEET TO AN IRON STAKE;

THENCE N 01°44'10"E 160.35 FEET TO AN IRON STAKE; THENCE AS A CURVE TO THE RIGHT, HAVING A RADIUS OF 1008.27 FEET, AN ARC DISTANCE OF 397.79 FEET, A CHORD OF N 13°02'18"E 395.21 FEET TO AN IRON STAKE; THENCE N 24°13'20"E 109.30 FEET TO THE BEGINNING, CONTAINING 13.36 ACRES, MORE OR LESS.

EXHIBIT A-2

FOREST CREEK SECTION 20

A CERTAIN TRACT OR PARCEL OF LAND FRONTING ON THE EAST SIDE OF MEYER FARM DRIVE AND ON THE NORTH SIDE OF FOREST CREEK DRIVE IN THE FOREST CREEK COMMUNITY, DESCRIBED AS FOLLOWS;

BEGINNING AT AN IRON STAKE IN THE NORTH LINE OF FOREST CREEK DRIVE AT THE INTERSECTION OF FOREST CREEK DRIVE WITH MEYER FARM DRIVE, SAID BEGINNING CORNER BEING LOCATED N04.°22'40"W 65.58 FEET FROM AN IRON STAKE IN THE SOUTH LINE OF FOREST CREEK DRIVE; RUNNING THENCE FROM THE BEGINNING AS A CURVE TO THE RIGHT, HAVING A RADIUS OF 20.00 FEET, AN ARC DISTANCE OF 32.17 FEET, A CHORD OF N 21.°51'50"W 28.81 FEET TO AN IRON STAKE IN THE EAST LINE OF MEYER FARM DRIVE; THENCE AS THE EAST LINES OF MEYER FARM DRIVE THE FOLLOWING CALLS, AS A CURVE TO THE LEFT HAVING A RADIUS OF 325.00 FEET, AN ARC DISTANCE OF 296.50 FEET, A CHORD OF N 01.°19'25"W 286.32 FEET TO AN IRON STAKE; THENCE N 27.°14'56"W 316.00 FEET TO AN IRON STAKE; THENCE AS A CURVE TO THE RIGHT, HAVING A RADIUS OF 710.00 FEET, AN ARC DISTANCE OF 350.56 FEET, A CHORD OF N 13.°06'05"W 347.01 FEET TO AN IRON STAKE; THENCE N01.°02'34"E 113.12 FEET TO AN IRON STAKE; THENCE AS A CURVE TO THE LEFT HAVING A RADIUS OF 1290.00 FEET, AN ARC DISTANCE OF 429.37 FEET, A CHORD OF N 08.°29'34"W 427.39 FEET TO AN IRON STAKE; THENCE AS A CURVE TO THE RIGHT HAVING A RADIUS OF 570.00 FEET, AN ARC DISTANCE OF 317.17 FEET, A CHORD OF N 02.°05'03"W 313.09 FEET TO AN IRON STAKE; THENCE LEAVING MEYER FARM DRIVE AS THE LINES OF A CONSERVATION EASEMENT THE FOLLOWING CALLS, S 88.°57'41"E 389.74 FEET TO AN IRON STAKE; THENCE S 44.°00'23"E 211.84 FEET TO AN IRON STAKE; THENCE S69.°54'54"E 321.62 FEET TO AN IRON STAKE; THENCE S 21.°55'46"W 125.40 FEET TO AN IRON STAKE; THENCE S 55.°09'34"W 105.24 FEET TO AN IRON STAKE; THENCE S 23.°14'22"W 76.41 FEET TO AN IRON STAKE; THENCE S 21.°36'08"E 136.00 FEET TO AN IRON STAKE; THENCE S 03.°59'14"E 170.98 FEET TO A CORNER; THENCE S 13.°27'04"E 51.59 FEET TO A CORNER; THENCE S 34.°45'37"W 31.73 FEET TO A CORNER; THENCE S 60.°54'57"W 119.51 FEET TO A CORNER; THENCE S 32.°53' 36"W 148.07 FEET TO A CORNER; THENCE S 16.°22'08"W 39.99 FEET TO A CORNER; THENCE S 66.°14'21"E 58.20 FEET TO A CORNER; THENCE N 65.°54'17"E 69.02 FEET TO AN IRON STAKE; THENCE S07.°46'01"E 83.07 FEET TO AN IRON STAKE; THENCE S 35.°36'10"W 163.85 FEET TO AN IRON STAKE; THENCE S 30.°44'11"E 398.02 FEET TO AN IRON STAKE IN THE NORTH LINE OF FOREST CREEK DRIVE; THENCE AS THE NORTH LINES OF FOREST CREEK DRIVE S 53.°45'00"W 123.13 FEET TO AN IRON STAKE; THENCE AS A CURVE TO THE RIGHT HAVING A RADIUS OF 370.00 FEET, AN ARC DISTANCE OF 377.27 FEET, A CHORD OF S82.°57'27"W 361.14 FEET TO THE BEGINNING, CONTAINING 22.07 ACRES, MORE OR LESS.

Exhibit B

The Sections listed below are those of the Forest Creek Golf Course community, as shown on plats of the same duly recorded in the Office of the Moore County Register of Deeds. The “Lot Type” indicated is the designation referenced in Article I and VI, Sec. 1.

Plat Section	Lot Type*
Section 1	Chanticleer and Condominium Property
Section 2	Estate
Section 3	Estate
Section 4	Estate
Section 5	Village
Section 6	Estate
Section 7	Village
Section 8	Estate
Section 9 (lots 908 A-E)	Village
Section 9 (all other lots)	Estate
Section 10	Estate
Section 11	Village
Section 12	Estate
Section 13	Village
Section 14	Estate
Section 15	Estate
Section 16	Village
Section 17	Chanticleer
Section 18	Estate
Section 19	Estate
Section 20	Chanticleer and Condominium

Based on the size and topographical features of a Village Lot as designated above and with the written consent of the Declarant and the approval of the building plans by the ARC, the Owner of such a Lot may build a home based on the requirements of an Estate Lot rather than the requirements of a Village Lot.