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Rebecca L. Pollard Reg. of Deeds

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STATE OF NORTH CAROLINA  
COUNTY OF ONSLOW

**DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR THE  
RESERVE AT HOLLY RIDGE**

This Declaration Of Covenants Conditions and Restrictions for the Reserve at Holly Ridge is made this 17th day of August 2012, by **HIGHWAY 50 DEVELOPMENT, INC.**, a North Carolina corporation, hereinafter referred to as "Declarant" or "Developer" for the purposes hereinafter stated;

**WITNESSETH:**

Whereas, Declarant is the owner of certain real property in Stump Sound Township, Onslow County, North Carolina, commonly known as **THE RESERVE AT HOLLY RIDGE**, and which is described in greater detail in that certain Warranty Deed recorded in the Office of the Register of Deeds of Onslow County, North Carolina, in Deed Book 3370, Page 1, to which reference is hereby made for a more particular description (the "Property").

WHEREAS, it is in the best interest of the Declarant and to the benefit, interest and advantage of every party hereafter acquiring any of the described property that certain covenants, conditions, easements, assessments, liens and restrictions governing and regulating the use and occupancy of the property be established;

WHEREAS, Declarant desires to provide for the preservation of the values and amenities and the desirability and attractiveness of said Property, and for the continued maintenance and operation of the recreational and common areas; and

NOW, THEREFORE, Declarant declares that the Property described above shall be held, sold and conveyed subject to the North Carolina Planned Community Act set forth in Chapter 47F of the North Carolina General Statutes (the "Act"), as well as the following easements, restrictions, covenants, conditions, and assessments relating to the use and occupancy thereof, which shall be construed as covenants running with the land and which shall be binding on all persons acquiring any right, title or interest in any of the Lots, as hereinafter defined, and which shall inure to the benefit of each owner thereof.

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

## ARTICLE I. DEFINITIONS

In addition to other terms defined herein, the following capitalized terms shall have the following meanings as used herein:

SECTION 1. Additional Property shall mean and refer to any lands, in addition to the above described Property, annexed to and made a part of the Planned Community, whether such lands are now owned or hereafter acquired by Declarant or others, and whether developed by Declarant or others.

SECTION 2. Allocated Interest shall mean the Common Expense Liability and votes in the Association allocated to each Lot.

SECTION 3. Association shall mean and refer to The Reserve at Holly Ridge Homeowners' Association, Inc., a North Carolina non-profit corporation, its successors and assigns, the owners association organized pursuant to the Act for the purposes set forth herein.

SECTION 4. Common Elements shall mean and refer to all lands and easements within or appurtenant to the Planned Community owned or enjoyed by the Association, other than a Lot, and intended for the common use and enjoyment of the Owners, including, without limitation, any private roads and storm water retention ponds within the Planned Community. Common Elements shall also include any areas designated on any plats for the Planned Community as "Open Space", "Common Area", "Common Element", "Recreation Area", "Amenity Area", "conservation area(s)", or other similar designation.

SECTION 5. Common Expenses means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

SECTION 6. Common Expense Liability means the liability for Common Expenses allocated to each Lot as permitted by the Act, this Declaration or otherwise.

SECTION 7. Declarant shall be used interchangeably with Developer (which designations shall include singular, plural, masculine and neuter as required by the context) and shall mean and refer to HIGHWAY 50 DEVELOPMENT INC., its successors and assigns, if such successors or assigns should acquire undeveloped property from the Declarant or a Lot not previously disposed of for the purpose of development and reserves or succeeds to any Special Declarant Right.

SECTION 8. Declarant Control Period shall have the meaning set forth in Article III hereof.

SECTION 9. Declaration shall mean this instrument as it may be from time to time amended or supplemented.

SECTION 10. Executive Board or Board shall be used interchangeably with the Board of Directors and means the body, regardless of name, designated in this Declaration or otherwise to act on behalf of the Association.

SECTION 11. Limited Common Elements shall mean areas and facilities within any Lot

which are for the exclusive use of the Lot Owner but which the Association is obligated to maintain pursuant to the terms of this Declaration. The Limited Common Elements shall consist of none (if none, so state).

SECTION 12. Lot(s) shall mean and refer to any portion of the Planned Community designated for separate ownership by a Lot Owner.

SECTION 13. Lot Owner or Owner shall mean the Declarant or other Person who owns a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 14. Master Association means a master association as defined in the Act.

SECTION 15. Person means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision, or agency or other legal or commercial entity.

SECTION 16. Planned Community shall mean and refer to the Property plus any Additional Property made a part of the Planned Community by the exercise of any Special Declarant Right.

SECTION 17. Purchaser means any Person, other than the Declarant or a Person in the business of selling real estate for the purchaser's own account, who by means of a voluntary transfer acquires a legal or equitable interest in a lot, other than (i) a leasehold interest (including renewal options) of less than 20 years, or (ii) as security for an obligation.

SECTION 18. Reasonable Attorneys' Fees means attorneys' fees reasonably incurred without regard to any limitations on attorneys' fees which otherwise may be allowed by law.

SECTION 19. Special Declarant Rights means rights reserved for the benefit of the Declarant including without limitation the right (i) to complete improvements intended or planned by Developer for the Property or Additional Property; (ii) to exercise any development or other right reserved to the Declarant by this Declaration or otherwise; (iii) to maintain within the Planned Community sales offices, management offices, construction offices/trailers, signs advertising the Planned Community, and models; (iv) to use the Common Elements for the purpose of making improvements within the Planned Community; (v) to make the Planned Community part of a larger planned community or group of planned communities; (vi) to make the Planned Community subject to a Master Association; (vii) to appoint or remove any officer or Executive Board member of the Association or any Master Association during the Declarant Control Period or (viii) to permit other land to be annexed to and made part of the Planned Community in accordance with the terms of this Declaration.

SECTION 20. Stormwater Permit shall mean State Stormwater Permit # **SW8 100504** issued by the North Carolina Division of Water Quality (DWQ), Department of Environment and Natural Resources (DENR).

## ARTICLE II. PROPERTY RIGHTS AND EASEMENTS

SECTION 1. Owners' Property Rights and Easement of Enjoyment. Every Owner shall have and is hereby granted a right and easement of enjoyment in and to the Common Elements, if any, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The Association may make and amend reasonable rules and regulations governing use of the Common Elements by the Owners;

(b) The Association may grant a security interest in or convey the Common Elements, or dedicate or transfer all or part of the Common Elements, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by at least eighty percent (80%) of the Members, excluding the Developer; provided, however, that the Association may without the consent of the Owners grant easements, leases, licenses and concessions through or over the Common Elements, and further provided that no conveyance or encumbrance of Common Elements shall deprive any Lot of its rights of access or support.

SECTION 2. Easements in Favor of Declarant and the Association. The following easements are reserved to Declarant and the Association, their agents, contractors, employees, successors and assigns:

(a) easements as necessary in the lands constituting the Common Elements and the rear and front ten feet of each Lot and side five feet of each Lot for the installation and maintenance of utilities and drainage facilities (including the right to go upon the ground with men and equipment to erect, maintain, inspect, repair and use electric and telephone lines, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in or over each Lot and such other areas as are shown on the plat of the Property or any Additional Property recorded or to be recorded in the office of the Register of Deeds of the county where the Planned Community is located; the right to cut drain ways, swales and ditches for surface water whenever such action may appear to the Developer or the Association to be necessary in order to maintain reasonable standards of health, safety and appearance; the right to cut any trees, bushes or shrubbery; the right to make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance; and the right to locate wells, pumping stations, and tanks within residential areas, or upon any Lot with the permission of the Owner of such Lot). No structures or plantings or other material shall be placed or permitted to remain upon such easement areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion. These easement areas (whether or not shown on the recorded plats for the Planned Community) but not the improvements within such areas shall be maintained by the respective Owner except those for which a public authority or utility company is responsible.

(b) easements over all private streets, if any, access easements, and Common Elements within the Planned Community as necessary to provide access, ingress and egress, to and the installation of utilities for any Additional Property.

(c) an easement of unobstructed access over, on, upon, through and across each Lot and the Limited Common Elements located thereon, if any, at all reasonable times to perform any maintenance and repair to the Limited Common Elements required by this Declaration.

**SECTION 3. Other Easements.** The following additional easements are granted by Declarant:

(a) an easement to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services, to enter upon all Lots and Common Elements in the performance of their duties. This includes the emergency access as described on the recorded plat at Chalet Road and Highway 50.

(b) in case of any emergency originating in or threatening any Lot or Common Elements, regardless of whether any Lot Owner is present at the time of such emergency, the Association or any other person authorized by it, shall have the immediate right to enter any Lot for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the Lot Owners.

(c) the Association is granted an easement over each Lot for the purposes of providing Lot maintenance when an Owner fails to provide maintenance and upkeep in accordance with this Declaration.

**SECTION 4. Nature of Easements.** All easements and rights described herein are perpetual easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the Declarant and the Association, their successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the Planned Community, or any part or portion thereof, regardless of whether or not reference is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

### **ARTICLE III. HOMEOWNERS' ASSOCIATION**

**SECTION 1. Formation of Association.** The Association shall be incorporated no later than the date the first Lot in the Planned Community is conveyed. The Association is a nonprofit corporation organized pursuant to the Nonprofit Corporation Act of the State of North Carolina for the purpose of establishing an association for the Owners of Lots to operate and maintain the Common Elements and any Limited Common Elements in accordance with this Declaration, its Charter and Bylaws. The Association shall be empowered to perform and/or exercise those powers set forth in the Act as it may be amended from time to time, in addition to any powers and authority otherwise granted to it.

**SECTION 2. Membership.** Every Lot Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Lot ownership. No Person or entity holding an interest in any Lot merely as security for the performance of

an obligation to pay money, e.g., mortgages or deeds of trust, shall be considered a member, unless such party shall realize upon its security and become the fee owner of a Lot. In such event, such party, and its assigns, will be subject to all of the requirements and limitations imposed in these covenants on Owners, including those provisions with respect to payment of assessments.

**SECTION 3. Voting Rights.** The Association shall have two classes of voting Membership.

*Class A.* Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting with respect to any Lot is prohibited.

*Class B.* The Declarant shall be a Class B Member and shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of any of the following events, whichever occurs earlier:

(a) when the total vote outstanding in the Class A Membership equals the total vote outstanding in the Class B Membership; or

(b) on December 31, 2023; or

(c) upon the voluntary surrender of all Class B Membership by the holder thereof.

The period during which there is Class B Membership is sometimes referred to herein as the "Declarant Control Period". During the Declarant Control Period, the Declarant shall have the right to designate and select the Executive Board of the Association and the right to remove any person or persons designated and selected by the Declarant to serve on the Executive Board, and to replace them for the remainder of the term of any person designated and selected by the Declarant to serve on the Executive Board who may resign, die, or be removed by the Declarant. No later than the termination of any period of declarant control, the Owners shall elect an Executive Board of at least three members, at least a majority of whom shall be Lot Owners. The executive board shall elect the officers. The executive board and officers shall take office upon election.

**SECTION 4. Government Permits.** After completion of construction of any facilities required to be constructed by Declarant pursuant to permits, agreements and easements for the Planned Community, all duties, obligations, rights and privileges of the Declarant under any water, sewer, stormwater and utility agreements, easements and permits for the Planned Community with municipal or governmental agencies or public or private utility companies, shall be the duties, rights, obligations, privileges and the responsibility of the Association,

notwithstanding that such agreements, easements or permits have not been assigned or the responsibilities there under specifically assumed by the Association. There are additional provisions made in this Declaration concerning stormwater facilities and the Stormwater Permit.

SECTION 5. Common Elements. The Association shall at its sole cost and expense be responsible for the operation and maintenance of each Common Element within the Planned Community from the date of completion of its construction or improvement by the Developer, whether or not (i) such Common Element has actually been deeded to the Association, or (ii) any permit issued by a governmental agency to Declarant for the construction and operation of the Common Element has been transferred from the Declarant to the Association or assumed by the Association. If the Declarant is required by any government agency to provide any operation or maintenance activities to a Common Element for which the Association is liable to perform such operation and maintenance pursuant to this section, then the Association agrees to reimburse the Declarant the cost of such operation and maintenance within 30 days after Declarant renders a bill to the Association therefore. The Association agrees to levy a Special Assessment within 30 days of receipt of such bill to cover the amount thereof if it does not have other sufficient funds available. Declarant shall be entitled to specific performance to require the Association to levy and collect such Special Assessment.

SECTION 6. Insurance. The Executive Board on behalf of the Association, as a Common Expense, may at all times keep the Common Elements and other assets of the Association, if any, insured against loss or damage by fire or other hazards and such other risks, including public liability Insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect such property, which insurance shall be payable in case of loss to the Association for all Members. The Association shall have the sole authority to deal with the insurer in the settlement of claims. Any policy of insurance obtained by the Board shall comply with the requirements of the Act, including N.C. Gen. Stat. § 47F-3-113(c). In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by Members or their mortgagees. At a minimum, the Executive Board shall maintain the insurance coverages required by the Act.

SECTION 7. Architectural Control Committee. The Executive Board shall perform all duties of the Architectural Control Committee if no such committee is appointed by it, subject, however, to the Special Declarant Rights. Any Architectural Control Committee appointed by the Executive Board shall consist of at least 3 members.

#### **ARTICLE IV. COVENANTS FOR ASSESSMENTS**

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. Each Lot Owner covenants and agrees to pay to the Association the following assessments (collectively the "Assessments"):

- A. Annual Assessments; B.
- Special Assessments;
- C. Insurance Assessments;

D. *Ad Valorem* Tax Assessments; and

E. Working Capital Assessments.

The 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 respective Lot against which the Assessments are made. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

**SECTION 2. Purpose of Annual Assessments.** The Annual Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and residents of the Planned Community and for the maintenance, repair, improvement and replacement of the Common Elements. The funds arising from said assessments or charges, may be used for any or all of the following purposes: Operations, maintenance and improvement of the Common Elements, including payment of utilities; enforcing this Declaration; paying taxes, insurance premiums, legal and accounting fees and governmental- charges; establishing working capital; providing adequate reserves for the replacement of capital improvements for which the Association is responsible paying dues and assessments to any organization or Master Association or other association of which the Association is a member; and in addition, doing any other things necessary or desirable as determined by the Executive Board to keep the Common Elements in good operating order and repair. Any common expense associated with the maintenance, repair, or replacement of a future Limited Common Element shall be assessed against the Lots to which that Limited Common Element is assigned in equal proportions.

**SECTION 3. Reserves.** No later than the end of the Declarant Control Period, the Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Elements and those other portions of the Property which the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for common expense.

**SECTION 3A. Annual Assessments.** The Executive Board shall adopt a proposed annual budget at least 90 days before the beginning of each fiscal year of the Association. Within 30 days after adoption of the proposed budget for the Planned Community, the Executive Board shall provide to all of the Lot Owners a summary of the budget and notice of a meeting to consider its ratification, including a statement that the budget may be ratified without a quorum. The Executive Board shall set a date for a meeting of the Lot Owners to consider ratification of the budget, such meeting to be held not less than 10 nor more than 60 days after mailing of the summary and notice. The budget is ratified unless at the meeting a majority of all of the Lot Owners in the Association rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Lot Owners shall be continued until such time as the Lot Owners ratify a subsequent budget proposed by the Executive Board. The Annual Assessment for each Lot shall be established based on the annual budget thus adopted; provided, however, that the first Annual Assessment shall be

set by the Declarant prior to the conveyance of the first Lot to an Owner. The date in each Fiscal Year upon which the Annual Assessment shall become due and payable shall be established by the Executive Board. The Executive Board shall have the authority to require the Assessments to be paid in periodic installments. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid.

SECTION 4. Special Assessments. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to the year only for the following purposes:

A. To defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such Special Assessment shall have the assent of two-thirds (2/3) of the Members of each class who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of any meeting of Owners called for the purpose of approving such Special Assessment shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting.

B. Without a vote of the Members, to provide funds to reimburse the Declarant as provided for in Article III, Section 5, hereof.

SECTION 5. Insurance Assessments. All premiums on insurance policies purchased by the Executive Board or its designee and any deductibles payable by the Association upon loss shall be a Common Expense, and the Association may at any time levy against the Owners equally an "Insurance Assessment", in addition to the Annual

Assessments, which shall be in an amount sufficient to pay the cost of all such deductibles and insurance premiums not included as a component of the Annual Assessment.

SECTION 6. Ad Valorem Tax Assessments. All ad valorem taxes levied against the Common Elements, if any, shall be a common expense, and the Association may at any time of year levy against the Owners equally an "Ad Valorem Tax Assessment", in addition to the Annual Assessments, which shall be in an amount sufficient to pay ad valorem taxes not included as a component of the Annual Assessment.

SECTION 7. Working Capital Assessments. At the time title to a Lot is conveyed to an Owner by Declarant, the Owner shall pay the sum of \$200.00 to the Association as working capital to be used for operating and capital expenses of the Association. Such amounts paid for working capital are not to be considered as advance payment of the Annual or any other Assessments.

SECTION 8. Rate of Assessment. Except as otherwise specifically provided herein, the Association shall fix annual and special assessments at a uniform rate for all Lots. The assessments shall be collected on a monthly basis. The Association may differentiate in the amount of Assessments charged when a reasonable basis for distinction exists, such as between vacant Lots of record and Lots of record with completed dwellings for which certificates of occupancy have been issued by the appropriate governmental authority, or

when any other substantial difference as a ground of distinction exists between Lots. During the Declarant Control Period, the Declarant may, in its sole discretion, fix the annual and special assessments at a lesser, discounted rate for any Lot or Lots owned by any builder, developer, general contractor, and/or construction company (not residing on said Lot or Lots) during the period of construction on said Lot or Lots, beginning when such builder, developer, or construction company purchases the Lot(s) until the transfer thereof to a customer, purchaser, or other grantee. Thereafter, assessments shall be fixed at a uniform rate for all Lots similarly situated.

SECTION 9. Commencement of Assessments. Assessments for each Lot shall commence upon the date of acceptance by an Owner of a deed from Declarant.

SECTION 10. Effect Of Nonpayment of Assessments And Remedies Of The Association. Any Assessment or installment thereof not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Elements or abandonment of his Lot. All unpaid installment payments of Assessments shall become immediately due and payable if an Owner fails to pay any installment within the time permitted. The Association may also establish and collect late fees for delinquent installments in any amount permitted by law. Nothing herein shall prohibit the Association from taking a deed in lieu of foreclosure.

SECTION 11. Lien for Assessments. The Association may file a lien against a Lot when any Assessment levied against said Lot remains unpaid for a period of 30 days or longer.

(a) The lien shall constitute a lien against the Lot when and after the claim of lien is filed of record in the office of the Clerk of Superior Court of the county in which the Lot is located. Except as provided in subsections (a1) and (a2) of this section, the Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes if the assessment remains unpaid for 90 days or more. Fees, charges, late charges, fines, interest, and other charges imposed pursuant to Sections 47F-3-102, 47F-3-107, 47F-3-107.1 and 47F-3-115 of the Act are enforceable as Assessments.

(a1) The Association shall not foreclose an Association assessment lien under Article 2A of Chapter 45 of the General Statutes if the debt securing the lien consists solely of fines imposed by the Association, interest on unpaid fines, or attorney's fees incurred by the Association solely associated with fines imposed by the Association. In such event, the Association shall enforce the lien by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.

(a2) The Association shall not levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any Lot Owner unless the fee is expressly allowed in the declaration. Any lien securing a debt consisting solely of these fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the General

Statutes.

(b) The lien under this section shall be prior to all liens and encumbrances on a Lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of lien in the office of the Clerk of Superior Court, and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot.

(c) The lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing of the claim of lien in the office of the Clerk of Superior Court.

(d) Any judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party. The Association shall notify the Lot Owner in writing of the Association's intent to seek payment of attorney's fees and court costs, sent by first-class mail to the property address and, if different, to the mailing address for the Lot Owner in the Association's record or as required under the Act and any amendments thereto. The notice shall set out the outstanding balance due as of the date of the notice and state that the Lot Owner has 15 days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. The notice shall also inform such Lot Owner of the opportunity to contact a representative of the Association to discuss a payment schedule for the outstanding balance as provided in N.C. Gen. Stat. § 47F-3-117(e1)-(e2), including the name and telephone number of the representative; provided neither the Association nor the Owner is obligated to offer or accept any proposed installment schedule. Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule after the Owner has been given notice as provided herein.

(e) Where the holder of a first mortgage or deed of trust of record, or other purchaser of a Lot obtains title to the Lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors and assigns shall not be liable for the Assessments against the Lot which became due prior to the acquisition of title to the Lot by such purchaser. The unpaid Assessments shall be deemed to be Common Expenses collectible from all of the Lot Owners including such purchaser, its heirs, successors and assigns. Unless otherwise prohibited by law, the Association may instead bring a civil action to recover any deficiency owed by such Owner and remaining due after foreclosure.

(f) A claim of lien shall set forth the name and address of the Association, the name of the record Owner of the Lot at the time the claim of lien is filed, a description of the Lot, and the amount of the lien claimed. In addition, the claim of lien shall contain such information as required by N.C. Gen. Stat. § 47F-3-117(g).

**ARTICLE V  
RIGHTS OF DEVELOPER**

The Declarant shall have, and there is hereby reserved to the Declarant, the Special

Declarant Rights as herein defined and the following rights, powers and privileges which shall be in addition to the Special Declarant Rights and any other rights, powers and privileges reserved to the Declarant herein:

SECTION 1. The Architectural Control Committee/Executive Board. All duties and responsibilities conferred upon the Architectural Control Committee by this Declaration or the Bylaws of the Association shall be exercised and performed by the Declarant or its designee, so long as Declarant shall own any Lot within the Property or any Additional Property. The Declarant shall be entitled during the Declarant Control Period to appoint and remove the officers and members of the Executive Board.

SECTION 2. Plan of Planned Community. The right to change, alter or re- designate the allocated planned, platted, or recorded use or designation of any of the lands constituting the Planned Community including, but not limited to, the right to change, alter or re-designate road, utility and drainage facilities and easements and to change, alter or re-designate such other present and proposed amenities, Common Elements, or facilities as may in the sole judgment and discretion of Declarant be necessary or desirable. The Declarant hereby expressly reserves unto itself, its successors and assigns, the right to re- plat any one (1) or more Lots shown on the Plat or the plat of any subdivision of the Property or Additional Property in order to create one or more modified Lots; to further subdivide tracts or Lots shown on any such subdivision plat into two or more Lots; to recombine one or more tracts or Lots or a tract and Lots to create a larger tract or Lot (any Lot resulting from such recombination shall be treated as one Lot for purposes of Assessments); to eliminate from this Declaration or any plats of the Planned Community Lots that are not otherwise buildable or are needed or desired by Declarant for access or are needed or desired by Declarant for use as public or private roads or access areas, whether serving the Planned Community or other property owned by the Declarant or others, or which are needed for the installation of utilities, Common Elements or amenities, and to take such steps as are reasonably necessary to make such re-platted Lots or tracts suitable and fit as a building site, access area, roadway or Common Elements.

The Declarant need not develop, or develop in any particular manner, any lands now owned or hereafter acquired by the Declarant, including any lands shown on plats of the Planned Community as "Future Development". Any such lands shall not be subject to this Declaration unless Declarant expressly subjects them hereto by filing of a supplemental declaration in the Register of Deeds office of the county where the Planned Community is located. Declarant is required by DWQ to state herein the maximum allowed built-upon area for all lots which Declarant has planned to develop within the Planned Community. By listing the maximum built-upon area herein for all such lots, Declarant does not obligate itself to develop in any particular manner or for any particular uses any lands now owned or hereinafter acquired by Declarant which are not shown on the recorded plats referenced herein. Declarant at its sole discretion may contribute and/or convey lots deemed unbuildable for any reason to the association for additional space.

SECTION 3. Amendment of Declaration by the Declarant. This Declaration may be amended without Member approval by the Declarant, or the Board of the Association, as the

case may be, as follows:

- A. In any respect, prior to the sale of the first Lot.
- B. To the extent this Declaration applies to Additional Property.
- C. To correct any obvious error or inconsistency in drafting, typing or reproduction.
- D. To qualify the Association or the Property and Additional Property, or any portion thereof, for tax-exempt status.
- E. To incorporate or reflect any platting change as permitted by this Article or otherwise permitted herein.
- F. To conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or any Additional Property or to qualify the Property or any Additional Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of the United States Government or the State of North Carolina, regarding purchase or sale of such Lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Department of Veterans Affairs, U.S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion. The Declarant may at any time amend this Declaration to change the maximum allowable built-upon area as permitted by DENR. Notwithstanding anything else herein to the contrary, only the Declarant, during the Declarant Control Period, shall be entitled to amend this Declaration pursuant to this Section.

SECTION 4. Annexation of Additional Property. Declarant may annex to and make a part of the Planned Community any other real property, whether now owned or hereafter acquired by Declarant or others, and whether developed by the Declarant or others (the "Additional Property"). Annexation of Additional Property to the Planned Community shall require the assent of 67 percent of the Class A Members who are voting in person or by proxy at a meeting called for this purpose; provided, however, Additional Property may be annexed to the Planned Community without the assent of the Members so long as the Additional Property is used for residential purposes, roads, utilities, drainage facilities, amenities, and other facilities not inconsistent with residential developments. Subdivisions from Additional Property need not have the same name as prior portions of the Planned Community.

**ARTICLE VI.  
USE RESTRICTIONS. ARCHITECTURAL CONTROL AND MAINTENANCE**

SECTION 1. Approval of Plans for Building and Site Improvements. No dwelling, wall or other structure shall be commenced, erected, or maintained upon any Lot, nor shall any exterior addition to or change in or alteration therein (including painting or repainting of exterior surfaces) be made until the plans and specifications showing the nature, kind, shape, heights, materials, colors and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. If the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and full compliance with this Article will be deemed to have occurred. Refusal or approval of any such plans, location or specification may be based upon any ground, including purely aesthetic and environmental considerations, that in the sole and uncontrolled discretion of the Architectural Control Committee shall be deemed sufficient. One copy of all plans and related data shall be furnished to the Architectural Control Committee for its records. The Architectural Control Committee shall not be responsible for any structural or other defects in plans and specifications submitted to it or in any structure erected according to such plans and specifications.

SECTION 2. Minimum Standards for Site Improvements.

A. Each dwelling shall have a minimum of 1400 square feet of enclosed, heated dwelling area; provided, however, the Architectural Control Committee may permit a dwelling to have a minimum of 1250 square feet if the Committee in its sole discretion finds that the variance will not adversely impact property values within the Planned Community. The term "enclosed, heated dwelling area" shall mean the total enclosed area within a dwelling which is heated by a common heating system; provided, however, that such term does not include garages, terraces, decks, open/screened porches, and like areas.

B. Since the establishment of inflexible building setback lines for location of houses on Lots tends to force construction of houses directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related considerations, no specific setback lines shall be established by this Declaration. In order to assure, however, that the foregoing considerations are given maximum effect, the site and location of any house or dwelling or other structure upon any Lot shall be controlled by and must be approved absolutely by the Architectural Control Committee; provided, however, that no structure shall be constructed closer to a Lot line than is permitted by applicable governmental regulations.

C. The exterior of all dwellings and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder, due to strikes, fires, national emergency, natural calamities, or the complexity of design and construction.

D. All service utilities, fuel tanks, and wood piles are to be enclosed within a wall or plant screen of a type and size approved by the Architectural Control Committee, so as to preclude the same from causing an unsightly view from any highway, street or way within the subdivision, or from any other residence within the subdivision. Design of mail and newspaper boxes shall be furnished by the Architectural Control Committee. Fences shall be permitted on any Lot; provided, however, that the design, placement, and materials of any fence are approved by the Architectural Control Committee. Clotheslines are not permitted on any Lot.

E. Off street parking for not less than two (2) passenger automobiles must be provided on each Lot prior to the occupancy of any dwelling constructed on said Lot which parking areas and the driveways thereto shall be constructed of concrete, brick, asphalt, or turf stone, or any other material approved by the Architectural Control Committee.

F. All light bulbs or other lights installed in any fixture located on the exterior of any building or any Lot for the purpose of illumination shall be clear, white or non-frost lights or bulbs.

### SECTION 3. Use Restrictions.

A. Land Use And Building Type. No Lot shall be used for any purpose except for residential purposes, subject, however, to the rights of the Declarant contained herein. All numbered Lots are restricted for construction of one single family dwelling (plus, a detached garage, if there is not one attached to the residence, and such other accessory buildings as may be approved by the Architectural Control Committee). No business activity or trade of any kind whatsoever, which shall include, but not be limited to, the use of any residence as a doctor's office, professional office of any kind, fraternity house, rooming or boarding house, antique or gift shop, shall be carried on upon any Lot.

B. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature as may diminish or destroy the enjoyment of other Lots by the Owners thereof. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly or unkept condition of buildings or grounds on the Owner's Lot which would tend to decrease the beauty of the neighborhood as a whole or the specific area.

C. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot any time as a residence either temporarily or permanently without the written consent of the Architectural Control Committee.

D. Vehicles/Boats. No boat, motor boat, personal water craft, camper, trailer, commercial truck, motor or mobile homes, tractor/trailer, construction equipment or similar type vehicle/equipment, shall be permitted to remain on any Lot or on any street at any time, without the prior written consent of the Association. No inoperable vehicle or vehicle without current registration and insurance will be permitted on any Lot, street or Common Element. All lawn maintenance equipment shall be stored, when not in use, in a method so as not to be visible from the street. The Association shall have the right to have all such vehicles boats or

equipment towed away at the owner's expense. No repairs to any vehicle may be made on streets or in driveways but only in garages or other areas and not visible from the street.

E. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that domesticated dogs, domesticated cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and provided further that they are not allowed to run free, are at all times kept properly leashed or under the control of their owner and do not become a nuisance.

F. Statuary, TV Satellite Dishes and Outside Antennas. No yard statuary or TV satellite signal receiving dishes are permitted on any Lot and no outside radio or television antennas shall be erected on any Lot or dwelling unit unless and until permission for the same has been granted by the Architectural Control Committee; provided, however, satellite dishes not over 18" in diameter which cannot be seen from the street are permitted.

G. Construction in Common Elements. No Person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Elements except at the direction or with the express written consent of the Association.

H. Signs. No signs (including "for sale" or "for rent" signs), political signs, billboards, or signs of any kind shall be permitted on any Lot or in the Common Elements during the Declarant Control Period. No signs (including "for sale" or "for rent" signs), political signs, billboards, or signs of any kind shall be permitted on any Lot or in the Common Elements after the end of any Declarant Control Period except in the manner approved by the Association; provided, however, the Declarant may, so long as Declarant owns any Lot, maintain for sale signs on Declarant's Lots and maintain signs on the Common Elements advertising the Planned Community.

I. Subdividing. Subject to any rights reserved to the Declarant herein, no Lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Declarant during the Declarant Control Period and thereafter by the Executive Board.

SECTION 4. Maintenance. Each Lot Owner shall keep his Lot free from weeds, underbrush or refuse piles, or unsightly growth or objects. All structures shall be kept neat and in good condition and repair. All shrubs, trees, grass and plantings shall be kept neatly trimmed and properly cultivated. In the event that any maintenance activities are necessitated to any Common or Limited Common Element by the willful act or active or passive negligence of any Owner, his family, guests, invitees or tenants, and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the Executive Board, the cost of the same shall be the personal obligation of the Owner and if not paid to the Association upon demand, may be added to and become a part of the Annual Assessment levied against said Owner's Lot.

SECTION 5. Covenant. The areas shown on the recorded plat (The Reserve at Holly Ridge Conservation Map, dated, March 22, 2012 and recorded on Map Book 64, Page 2 -2C in the Onslow County Register of Deeds) as conservation areas shall be maintained in perpetuity in their natural or mitigated condition. No person or entity shall perform any of the following activities on such conservation area:

- a. fill, grade, excavate or perform any other land disturbing activities
- b. construct or place any roads, trails, walkways, buildings, mobile homes, signs, utility poles or towers, or any other permanent or temporary structures
- c. drain or otherwise disrupt or alter the hydrology or drainage ways of the conservation area
- d. dump or store soil, trash, or other waste
- e. graze or water animals, or use for any agricultural or horticultural purpose

This covenant is intended to ensure continued compliance with the mitigation condition of a Clean Water Act authorization issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, Action ID SAW-2009-01959, and therefore may be enforced by the United States of America. This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it.

These restrictions, identified in paragraph, cannot be amended without the express written consent of the U.S. Army Corps of Engineers, Wilmington District.

SECTION 6. Intentionally Left Blank

**ARTICLE VII.  
STORMWATER PERMIT/FACILITIES**

SECTION 1. Stormwater Permit. The Association and each of its Members agree that at any time after (i) all work required under the Stormwater Permit has been completed (other than operation and maintenance activities), and (ii) the developer is not prohibited under DENR regulations from transferring the Stormwater Permit for the Planned Community to the Association, the Association's officers without any vote or approval of Lot Owners, and within 10 days after being requested to do so, will sign all documents required by DENR for the Stormwater Permit to be transferred to the Association and will accept a deed conveying such facilities to the Association (if not already deeded); provided, however, that at the time the Developer requests that the Association accept transfer of the Stormwater Permit, the Developer has delivered to the Association a certificate from an engineer licensed in the State of North Carolina, dated no more than 45 days before the date of the request, that all stormwater retention ponds, swales and related facilities are constructed in accordance with the plans and specifications therefore. If the Association fails to sign the documents required by this paragraph or to accept a deed conveying such facilities, the Developer shall be entitled to specific performance in the courts of North Carolina requiring that the appropriate Association officers sign all documents necessary for the Stormwater Permit to be transferred to the Association and accept a deed conveying such facilities to the Association. Failure of the officers to sign as provided herein shall not relieve the Association of its obligations to operate and maintain the stormwater facilities covered by the Stormwater Permit.

SECTION 2. Stormwater Facilities Operation and Maintenance. Any stormwater

retention ponds and related facilities for the Planned Community which have or are to be constructed by or on behalf of Declarant constitute Common Elements and, subject only to the provisions of Section 3 of this Article VII, the Association, at its sole cost and expense, is responsible for the operation and maintenance of such facilities. Such operation and maintenance shall include, but not be limited to, compliance with all of the terms and obtaining any renewals of the Stormwater Permit. Except as provided in Section 3 of this Article VII, the Association shall indemnify and hold harmless the Developer from any obligations and costs under the Stormwater Permit for operation and maintenance of the stormwater retention ponds and related facilities.

**SECTION 3. Damage to Storm Water Facilities.** The Declarant shall at its sole cost and expense be responsible for repairing any damage to storm water facilities caused by the Developer's development activities. The Developer shall not be responsible for damages to stormwater retention ponds and related facilities caused by any other cause whatsoever, including but not limited to construction of residences or other activities by Owners, their agents and contractors, upon their Lots, acts of God, and the negligence of others. Lot Owners shall be responsible for damages to such stormwater facilities caused by construction of buildings or other activities upon the Owner's Lot. Each Owner, shall within 30 days after receipt of notice of damage to stormwater facilities, repair the damage at the Owner's sole cost and expense to return them to the state required by the storm water plans and specifications for the Planned Community. If the Lot Owner falls to do so within said 30-day period, the Association shall perform the work and the cost of the work shall be added to the Annual Assessment due from the Lot Owner.

**SECTION 4. Enforcement of Stormwater Runoff Regulations.** The Property is subject to certain restrictive covenants imposed by the North Carolina Department of Environment and Natural Resources, Division of Water Quality, which are referred to in Exhibit A and all of which are incorporated herein by reference. These restrictive covenants, among other things, limit the built upon area permitted on each Lot.

#### **ARTICLE VIII. LOTS SUBJECT TO DECLARATION/ENFORCEMENT**

**SECTION 1. Lots Subject to Declaration.** The covenants and restrictions contained in this Declaration are for the purpose of protecting the value and desirability of the Planned Community and the Lots. All present and future Owners, tenants and occupants of Lots and their guests or invitees, shall be subject to, and shall comply with the provisions of the Declaration, and as the Declaration may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Lot shall constitute an agreement that the provisions of the Declaration are accepted and ratified by such Owner, tenant or occupant. The covenants and restrictions of this Declaration shall run with and bind the land and shall bind any person having at any time any interest or estate in any Lot, their heirs, successors and assigns, as though such provisions were made a part of each and every deed of conveyance or lease, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless terminated by the Lot Owners.

**SECTION 2. Enforcement and Remedies.** The covenants and restrictions of this

Declaration shall inure to the benefit of and be enforceable (by proceedings at law or in equity) by the Association, or by the Owner of any Lot, their respective legal representatives, heirs, successors and assigns. The Executive Board shall be entitled to enforce its Articles of Incorporation, Bylaws and Rules and Regulations. In addition to the remedies otherwise provided for herein concerning the collection of Assessments, the following remedies shall be available:

A. Association to Remedy Violation. In the event an Owner (or other occupant of a Lot) is in violation of or fails to perform any maintenance or other activities required by this Declaration, the Association's Bylaws, Charter or Rules and Regulations, the Executive Board, after 30-days notice, may enter upon the Lot and remedy the violation or perform the required maintenance or other activities, all at the expense of the Owner. The full amount of the cost of remedying the violation or performing such maintenance or other activities shall be chargeable to the Lot, including collection costs and reasonable attorneys' fees. Such amounts shall be due and payable within 30 days after Owner is billed. If not paid within said 30 day period, the amount thereof may immediately be added to and become a part of the Annual Assessment levied against said Owner's Lot. In the event that any maintenance or repair activities are necessitated to any Common or Limited Common Elements by the willful act or active or passive negligence of any Owner, his family, guests, invitees or tenants, and the cost of such maintenance, repair or other activity is not fully covered by insurance, then, at the sole discretion of the Executive Board, the cost of the same shall be the personal obligation of the Owner and if not paid to the Association upon demand, may immediately be added to and become a part of the Annual Assessment levied against said Owner's Lot.

If damage is inflicted on any Lot by an agent of the Association in the scope of the agent's activities as such agent, the Association is liable to repair such damage or to reimburse the Owner of such Lot for the cost of repairing such damages and for any losses to such Owner.

B. Fines. The Association may in accordance with the procedures set forth in the Act establish a schedule of and collect fines for the violation of this Declaration or of the Association's Articles of Incorporation, Bylaws or Rules and Regulations. If an Owner does not pay the fine when due, the fine shall immediately become a part of and be added to the Annual Assessment against the Owner's Lot and may be enforced by the Association as all other Assessments provided for herein.

C. Suspension of Services and Privileges. The Association may, in accordance with the procedures set forth in the Act suspend all services and privileges provided by the Association to an Owner (other than rights of access to Lots) for any period during which any Assessments against the Owner's lot remain unpaid for at least 30 days or for any period that the Owner or the Owner's Lot is otherwise in violation of this Declaration or the Association's Charter, Bylaws, or Rules and Regulations.

SECTION 3. Procedure. Whenever a claim arising under Section 2 above is less than or equal to the jurisdictional amount established for small claims by N.C. Gen. Stat. § 7A-210, any aggrieved party may request that a hearing be held before an adjudicatory panel by

the Executive Board to determine if an Owner is responsible for damages to any common element or the Association is responsible for damages to any lot. If the Executive Board fails to appoint an adjudicatory panel to hear such matters, hearings under this section shall be held before the Executive Board. Such panel shall accord to the party charged with causing damages notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. The panel may assess liability for each damage incident against each Lot Owner charged or the Association, not in excess of the jurisdictional amount established for small claims by G.S. § 7A-210. When the claim under Section 2 above exceeds the jurisdictional amount established by G.S. § 7A-240, liability of any Lot Owner or the Association shall be determined as otherwise provided by law. Liabilities of Lot Owners determined by adjudicatory hearing or as otherwise provided by law shall be assessments secured by lien under G.S. 47F-3-116. Liabilities of the Association determined by adjudicatory hearing or as otherwise provided by law may be offset by the Lot Owner against sums owing to the association and if so offset, shall reduce the amount of any lien of the Association against the Lot at issue.

**SECTION 4. Miscellaneous.** 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 do so thereafter. The remedies provided herein are cumulative and are in addition to any other remedies provided by law.

## **ARTICLE IX. GENERAL PROVISIONS**

**SECTION 1. Rights of Institutional Note Holders.** Any institutional holder of a first lien on a Lot will, upon request, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive an annual audited financial statement of the Association within ninety (90) days following the end of its fiscal year, (c) receive written notice of all meetings of the Association and right to designate a representative to attend all such meetings, (d) receive written notice of any condemnation or casualty loss that affects either a material portion of the Planned Community or the property securing its loan, (e) receive written notice of any sixty-day (60) delinquency in the payment of Assessments or charges owed by any Owner of any property which is security for the loan, (f) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association, (g) receive written notice of any proposed action that requires the content of a specified percentage of mortgage holders, and (h) be furnished with a copy of any master insurance policy.

**SECTION 2. Utility Service.** Declarant reserves the right to subject the Property to contracts for the installation of utilities, cable TV and street lighting, which may require an initial payment and/or a continuing monthly payment by the Owner of each Lot. Each Lot Owner will be required to pay for any water connections, sewer connections, impact fees or any other charges imposed by any entity furnishing water, sewer or other utility service to the Lots. In the alternative, the Developer may collect such connection, impact and other fees, and charges directly from the Lot Owners. All Lot Owners shall be required, for household purposes, to use water and sewer supplied by the companies/governmental units servicing the Planned Community. Separate water systems for outside irrigation and other outdoor

uses shall not be permitted without the consent of the Architectural Control Committee.

SECTION 3. Attorneys' Fees Recoverable. Except as provided in G.S. 47F-3-116, in an action to enforce provisions of the articles of incorporation, this declaration, the bylaws, or duly adopted rules or regulations, the court may award reasonable attorneys' fees to the prevailing party pursuant to G.S. 47F-3-120.

SECTION 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 5. Amendment of Declaration. Except in cases of amendments that may be executed by the Declarant under this Declaration or by certain Lot Owners under Section 47F-2-118(b) of the Act, this Declaration may be amended by affirmative vote or written agreement signed by Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, or by the Declarant if necessary for the exercise of any Special Declarant Right or development or other right reserved to the Declarant herein.

SECTION 6. FHANA Approval. So long as there is Class B membership, annexation of Additional Properties, dedication of Common Elements and amendments to this Declaration must be approved by the Federal Housing Administration and/or the Department of Veterans Affairs, as the case may be, if either of those agencies has approved the making, insuring or guaranteeing of mortgage loans within the Planned Community.

SECTION 7. North Carolina Planned Community Act. It is the intent of the Declarant to comply with the requirements imposed on the Planned Community by the Act and to the extent any of the terms of this Declaration violate the Act, the terms of the Act shall control.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed, by authority of its Board of Directors, this 21<sup>st</sup> day of August, 2012.

HIGHWAY 50 DEVELOPMENT, INC.

By: *L. Mark Yow*  
Lionel Mark Yow  
Its: *[Signature]*

STATE OF NORTH CAROLINA

COUNTY OF ~~ONSLOW~~ <sup>DOWN</sup> *New Hanover*

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Lionel Mark Yow, personally came before me this day and acknowledged that he is a duly authorized officer of Highway 50 Development, Inc., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him on behalf of the corporation.

My commission expires: May 4, 2013

Witness my hand and official seal, this the 21<sup>st</sup> day of August, 2012.

*Greta P. Merritt*  
NOTARY PUBLIC



**EXHIBIT A**

See State Stormwater Permit # SW8 100504 issued by the North Carolina Division of Water Quality (DWQ), Department of Environment and Natural Resources (DENR) and attachments thereto.