

WAKE COUNTY, NC 11186
LAURA M RIDDICK
REGISTER OF DEEDS
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NORTH CAROLINA

WAKE AND CHATHAM COUNTIES

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR BALI PATIO HOMES AT
STONEWATER**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made this 28th day of November, 2007, by **LENNAR CAROLINAS, LLC**, a Delaware limited liability company (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in the Town of Cary, Counties of Wake and Chatham, State of North Carolina, and more particularly described on Exhibit A attached hereto and incorporated by reference herein (the "Properties");

WHEREAS, Declarant reserves the right without limitation to subject all of the real property as described on Exhibit B attached hereto and incorporated by reference herein, to the terms of this Declaration in accordance with the provisions of Article 9 of this Declaration;

WHEREAS, the Properties have been subjected to that certain Declaration of Covenants, Conditions and Restrictions for Stonewater Subdivision recorded in Book 12493, Page 1860, Wake County Registry and in Book 1328, Page 662, Chatham County Registry (hereinafter collectively referred to as the "Master Covenants"); and

WHEREAS, it is the intent of the Declarant to cause the Properties to be subjected to this Declaration which is in addition to those Master Covenants.

NOW, THEREFORE, Declarant hereby declares that the Properties, including without limitation, every Lot (as hereinafter defined) which is a part of the Properties, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, as well as the provisions of the North Carolina Planned Community Act (as hereinafter defined), which are for the purpose of protecting the value and desirability of, and which shall run with such real property and shall be binding on all parties having any right, title or interest in the above-described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1 - DEFINITIONS

SECTION 1.01. “Additional Property” shall mean and refer to additional real estate near or contiguous to the Property, which may be made subject to the terms of this Declaration in accordance with the provisions of Article 9 of this Declaration, including, without limitation, all of the real property not already subjected to this Declaration described on Exhibit B attached hereto and incorporated by reference herein.

SECTION 1.02. “Amenities” means the improvements, if any, constructed, erected, installed or existing on the Sub Association Common Area for the common use, benefit and enjoyment of the Properties by the Owners, such as clubhouses, lakes and greenways.

SECTION 1.03. “Architectural Committee” means a committee of three individuals appointed by the Board of Directors.

SECTION 1.04. “Board of Directors” or “Board” means those persons elected or appointed and acting collectively as the Directors of the Sub Association.

SECTION 1.05. “Common Expenses” or “Sub Association Common Expenses” shall mean and include:

- A. Costs and expenses associated with the Sub Association's maintenance of the Sub Association Common Areas as provided in this Declaration;
- B. Maintenance of Stormwater Control Measures, replacement contribution payments required to be paid by the Sub Association to the Town by Stormwater Replacement.
- C. Protection Easement and Access maintenance Agreement, if any.
- D. Any such expenses as allowed under the Planned Community Act.

SECTION 1.06. “Declarant” shall mean and refer to Lennar Carolinas, LLC, a Delaware limited liability company, and its successors and assigns, provided that any such successor-in-title or assign shall acquire for the purpose of development and/or sale all or

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

SECTION 1.07. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Bali Patio Homes at Stonewater and all valid amendments hereto applicable to the Properties recorded in the Office of the Register of Deeds of Wake and Chatham Counties, North Carolina.

SECTION 1.08. "Eligible Mortgage Holder" shall mean a holder, insurer, or guarantor of a first Mortgage on a Lot who has requested notice of certain matters from the Sub Association as provided in this Declaration or the Organizational Documents.

SECTION 1.09. "FHA" shall mean and refer to the Federal Housing Administration of the U.S. Department of Housing and Urban Development, "HUD" shall mean the U.S. Department of Housing and Urban Development, and "VA" shall mean and refer to the U.S. Department of Veterans Affairs.

SECTION 1.10. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties (provided said map has been approved by Declarant or the Sub Association), with the exception of the Sub Association Common Areas owned in fee simple. Except where otherwise indicated by context, the term "Lot" shall also include the Improvements on such Lot.

SECTION 1.11. "Lot in Use" shall mean any Lot on which a Patio Home has been fully constructed and for which a certificate of occupancy or similar certificate has been issued by the appropriate governmental agency.

SECTION 1.12. "Map" or "Maps" shall mean and refer to any map of the Properties constituting additional phases (if they are annexed pursuant to Article 10 hereof) which may be recorded by Declarant in the Wake and or Chatham County Registry, whichever is applicable, hereafter.

SECTION 1.13. "Master Association" shall mean and refer to STONEWATER HOA, INC., its successors and assigns of which every Member of the Sub Association is also a member of the Master Association.

SECTION 1.14. "Master Covenants" shall mean and refer to that certain Declaration of Covenants, Conditions and Restrictions for Stonewater Subdivision recorded in

Book 12493, Page 1860, Wake County Registry and in Book 1328, Page 662, Chatham County Registry, and all valid amendments recorded in the Office of the Register of Deeds of Wake and Chatham Counties, North Carolina.

SECTION 1.15. “Member” shall mean and refer to every Person who or which holds membership in the Sub Association.

SECTION 1.16. “Mortgage” means any mortgage, deed of trust, and any and all similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

SECTION 1.17. “Mortgagee” shall include a beneficiary or holder of a deed of trust, as well as a mortgagee under a mortgage.

SECTION 1.18. “Organizational Documents” shall mean and refer to the Articles of Incorporation and Bylaws of the Sub Association, and all lawful amendments thereto. The Articles of Incorporation of the Sub Association and the Bylaws of the Sub Association are attached to this Declaration as Exhibits C and D, respectively. Unless required by applicable law, including but not limited to the ordinances and regulations of the Town, amendments to Organizational Documents are not required to be recorded in the Wake or Chatham County Registry as an amendment to this Declaration.

SECTION 1.19. “Owner” shall mean and refer to the record owner, whether one or more Persons, of a fee simple interest (or undivided fee simple interest) in any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 1.20. “Patio Home” shall mean and refer to a detached single family dwelling or place of residence constructed upon a Lot within the Properties.

SECTION 1.21. “Person” means any individual, corporation, partnership, limited liability company, Sub Association, trustee, or other legal entity.

SECTION 1.22. “Planned Community Act” or “Act” shall mean the provisions of the North Carolina Planned Community Act, as contained in Chapter 47F of the General Statutes of North Carolina applicable to the Properties, as such provisions shall be amended and recodified from time to time.

SECTION 1.23. “Properties” shall mean and refer to that certain real property described in this Declaration affecting real property now within the jurisdiction of the Sub Association and such additions thereto as hereafter may be annexed and brought within the jurisdiction of the Sub Association.

SECTION 1.24. “Sub Association” shall mean and refer to Bali Patio Homes Sub Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

SECTION 1.25. “Sub Association Common Areas” shall be defined and include without limitation:

- A. All central appurtenant installations for services such as electricity, gas, telephone and cable television;
- B. Private streets, drives, parking areas, medians traffic and landscape islands on private streets, street yard areas, subdivision signs and entrances on the Properties or serving the Properties, but excluding driveways serving individual Lots;
- C. All of the parts of the Properties and facilities and Amenities existing in or upon the Properties for common use which is necessary or convenient to the existence, enjoyment, use, maintenance or safety of the Properties;
- D. Any drainage easement shown on the Plat or future map recordings however named pursuant to an Encroachment Agreement with the City and Stormwater Control Measures serving more than one (1) Lot which are situated outside of the public street rights of way including without limitation, detention facilities, retention facilities, wet ponds, sand filters, wetlands, bio-retention measures, swales and storm pipes that serve more than one (1) lot (excluding those pipes and Stormwater Control Measures serving one (1) lot); and
- E. Open space, including any permanently protected undisturbed open space areas.

SECTION 1.26. “Supplemental Declaration” shall mean and refer to any Supplemental Declaration of Covenants, Conditions and Restrictions filed in the offices of the Register of Deeds of Wake and Chatham Counties, to bring additional property within the coverage of this Declaration and the jurisdiction of the Association, as more particularly described in Article 9 hereof.

SECTION 1.27. “Town” shall mean the Town of Cary, North Carolina.

ARTICLE 2 - PROPERTY RIGHTS

SECTION 2.01. OWNER'S EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of use and enjoyment in and to the Sub Association Common Area and a right and easement over the Sub Association Common Area for access, ingress and egress to and from streets, parking areas and walkways and to and from such Owner's Lot, which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- A. **Admission and Other Fees:** Subject to the ordinances of the Town, the right of the Sub Association to regulate the use of and to charge reasonable admission and other fees for the use of any recreation facility situated upon the Sub Association Common Area;
- B. **Suspension of Use of Sub Association Common Area:** The right of the Sub Association to suspend the right to use any Amenities, except drainage and access rights, by any Owner, his family, occupants, tenants, guests, and invitees during any period in which such Owner shall be in default in the payment of any assessment levied by the Sub Association. Such rights may be suspended, after notice and hearing, for the period of the infraction plus a reasonable period not to exceed sixty (60) days, for infraction or violation of any provision of this Declaration, the Organizational Documents or published rules and regulations of the Sub Association;
- C. **Dedication and Transfer of Sub Association Common Area:** Except with respect to easements granted by the Sub Association and except as restricted by applicable law including but not limited to the ordinances, regulations and procedures, including variances, of the Town, the right of the Sub Association to dedicate or transfer all or part of the Sub Association Common Area to any public agency, authority or utility, or for such purposes as may be agreed to by the Members, and subject to such conditions as may be agreed to by the Members, and provided that said dedication or transfer shall be approved as provided herein. Except with respect to easements granted by the Sub Association no such dedication or transfer shall be effective unless Members entitled to cast at least 80% of the votes of the entire membership, plus at least 67% of the votes of the membership excluding the Declarant, have signed a written instrument consenting or agreeing to such dedication or transfer and unless such other agreement or consent as then required by the Planned Community Act and the ordinances, regulations and procedures, including variances, of the Town have been satisfied. Any such dedication or transfer shall be made subject to the rights and easements of the Sub Association and the Owners established hereunder, including but not limited to every Owner's easement for access, ingress and egress right to such Owner's Lot and use of the Sub Association Common Areas;
- D. **Guests:** The right of the Sub Association to limit the number of guests that a Member may allow to use the Sub Association Common Area;
- E. **Borrowing for Improvements:** The right of the Sub Association, in accordance with its Organizational Documents and the Planned Community Act, to borrow money for the purpose of constructing, repairing, or improving the Sub Association Common Area, including but not limited to the Amenities (or any portion thereof) and to the Stormwater Control Measures and in aid thereof, with the assent of Members entitled to at least 80% of the votes of the entire

membership, plus at least 67% of the votes of the membership excluding the Declarant, and in accordance with the provisions of the Planned Community Act, to mortgage, pledge, encumber or hypothecate said Sub Association Common Area; provided, however, the right of such Mortgagee shall be subordinate to the rights and easements of the Sub Association and the Owners established hereunder;

- F. **Use of Sub Association Common Area**: The right of the Sub Association, through its Board of Directors, to determine the time and manner of use of the Sub Association Common Areas and Amenities, if any, by the Members and others and to formulate, publish and enforce rules and regulations, and specifically including, but not limited to, the right to make permanent and temporary assignment of parking spaces and to make rules and regulations concerning parking;
- G. **Easements**: The right of the Declarant, during the period of Class B membership, with regard to the Properties which may be owned for the purpose of development, to grant easements in and to the Sub Association Common Area to any public agency, authority, or any utility for such purposes as benefits the Properties or any portion thereof. This Section 2.01(G) may not be amended or deleted, without the written consent of Declarant;
- H. **Driveways**: The right and easement of individual Owners for driveways and walkways as provided in this Declaration;
- I. **Exchanges**: The right of the Sub Association, as provided by and consistent with the Town Code of Cary, as the same may be amended from time to time, to exchange all or part of the Sub Association Common Area for other real property and consideration of like value and utility subject to the provisions of the Planned Community Act;
- J. **Owner's Maintenance Easement**: The right and easement of individual Owners to maintain, repair and reconstruct the Patio Home on such Owner's Lot; and
- K. **Rules and Regulations**: The right of the Board to formulate, publish and enforce rules and regulations as provided in this Declaration.

SECTION 2.02. DELEGATION OF USE. Any Owner may delegate his right of use and enjoyment to the Sub Association Common Area, including but not limited to the Amenities, to the members of his family, his tenants, contract purchasers or guests, who reside on such Owner's Lot, subject to the provisions of this Declaration.

SECTION 2.03. TITLE TO SUB ASSOCIATION COMMON AREA. The Declarant and Owner covenants for itself, its successors and assigns, that in accordance with the Planned Community Act it will convey fee simple title in the Sub Association Common Area to

the Sub Association, free and clear of all encumbrances and liens, except the current year's ad valorem real property taxes, utility, drainage and other easements as provided in this Declaration or as shown on recorded plats of the Properties, and an easement of enjoyment to which the Owners are entitled to share. Title to Sub Association Common Area within real property annexed pursuant to this Declaration shall be similarly conveyed to the Sub Association. The Sub Association Common Area shall be preserved for the perpetual benefit of the Owners of the Lots and the Sub Association Common Area is restricted against private or public ownership for any other purpose other than as provided by the Planned Community Act and the Cary Town Code. Sub Association Common Area shall not be subsequently subdivided or conveyed by the Sub Association except as permitted by and in accordance with this Declaration, the Planned Community Act and the ordinances, regulations and procedures, including variances, of the Town.

SECTION 2.04. EXCHANGE OF SUB ASSOCIATION COMMON AREA. The Sub Association, acting through its Board, from time to time may exchange with the Declarant or any member a portion of the Sub Association Common Area for a portion of the real property owned by such member within his lot provided that the real property acquired by the Sub Association in exchange: (a) is free and clear of all encumbrances except the Declaration, and easements for drainage, utilities and sewers; (b) is contiguous to other portions of the Sub Association Sub Association Common Area; (c) has approximately the same area and utility as the portion of the Sub Association Sub Association Common Area exchanged; and (d) has been approved, if required, by the Town of Cary Planning Department to assure that the provisions of the Town Code is not being violated. The real property so acquired by the Sub Association shall be a part of the Sub Association Common Area, and without further act of the Sub Association or membership, shall be released from any provisions of the Declaration except those applicable to the Sub Association Common Area. The portion of the Sub Association Common Area so acquired by Declarant or a member, without further act of the Sub Association or membership, shall cease to be Sub Association Common Area and shall be subject to those provisions of the Declaration that were applicable to the real property conveyed to the Sub Association by the member.

SECTION 2.05. RULES AND REGULATIONS. The Board of Directors may establish reasonable rules and regulations concerning the use of the Sub Association Common Area, including but not limited to the Amenities, and the Lots. Copies of such rules and regulations and amendments thereto shall be furnished by the Sub Association to all Owner's prior to their effective date. Such rules and regulations shall be binding upon the Owner's (with the exception of the Class B Member), their families, tenants, guests, invitees, and agents until and unless such rule or regulation shall be specifically overruled, canceled, or modified by the Board of Directors or by the affirmative votes of a majority of the Members in a regular or special meeting. After notice, opportunity to be heard and notice of the final decision, the Board of Directors shall have the authority to impose reasonable monetary fines and other sanctions for a violation of the Sub Association's rules and regulations, including but not limited to a suspension of the Owner's rights to use the Amenities. All rules and regulations shall be uniform with respect to the Lots. Notwithstanding anything to the contrary in this Declaration, the Board of Directors may not suspend an Owner's right of ingress and egress over the Sub

Association Common Areas and right to the use of parking spaces as provided in this Declaration.

SECTION 2.06. TAXES ON SUB ASSOCIATION COMMON AREA. The Sub Association shall be responsible for and shall cause to be paid out of annual assessments all ad valorem taxes, special assessments and assessments for public and private capital improvements made to or for the benefit of the Sub Association Common Area or levied against the Sub Association Common Area owned in fee simple by the Sub Association.

ARTICLE 3 - MEMBERSHIP AND VOTING RIGHTS

SECTION 3.01. MEMBERSHIP. The Board of Directors may make reasonable rules relating to the proof of ownership of a Lot. Following termination of the Properties as a planned community under the provisions of the Planned Community Act, all persons entitled to distributions of proceeds under the Planned Community Act shall be Members of the Sub Association.

SECTION 3.02. MEMBERSHIP CLASSES. The Sub Association shall have two classes of voting membership:

Class A: Class A Members shall be all Owners of Lots with the exception of the Class B Member, if any. Class A Members shall be entitled to one (1) vote for each Lot owned. The Class B Member shall be a Class A Member upon the termination of Class B Membership.

Class B: The Class B Member shall be the Declarant and its assigns and each Class B Member shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the occurrence of any of the following events, whichever occurs first:

- (a) When the total votes outstanding in Class A membership equals the total votes outstanding in Class B membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in subparagraph (b) below, additional land is annexed to the Planned Community without the assent of Class A Members for the development of such additional land by the Declarant, as provided in this Declaration, but in any event the Class B membership shall terminate when 75% of the Lots have been deeded to Owners other than the Declarant;
- (b) Until seven (7) years from recording of this document; or
- (c) Upon the surrender of the Class B membership by the Declarant.

ARTICLE 4 - COVENANT FOR ASSESSMENTS

SECTION 4.01. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Sub Association assessments.

Such assessments are to be established and collected as hereinafter provided. All annual assessments shall be fixed at a uniform rate for all Lots; provided, however, as to any Lot which is not a Lot in Use, the amount of the annual assessment for each such Lot shall be an amount equal to twenty-five (25%) of the amount of the annual assessment applicable to a Lot which is a Lot in Use. Except as provided herein, special assessments shall be fixed at a uniform rate for all Lots without regard as to whether or not said Lot is a Lot in Use. Annual assessments shall be collected on a monthly basis. Special assessments may be collected on an annual, semi-annual, quarterly or monthly basis as determined by the Board from time to time. The annual and special assessments, together with such interest thereon, applicable late fees and the cost of collection thereof, including reasonable attorney fees, shall be a charge on the Lot and shall be a continuing lien upon such Lot until paid in full. Each such assessment, together with such interest, late fees and costs of collection, including reasonable attorney 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 shall not pass to his successors in title unless expressly assumed by them.

SECTION 4.02. RESERVE FUND. The Sub Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Sub Association Common Areas and those other portions of the Properties or Lots which the Sub Association may be obligated to maintain. Such reserve fund is to be established and maintained out of regular assessments as a common expense, but if the reserve fund is inadequate, a special assessment may be made.

SECTION 4.03. ADOPTION OF BUDGET AND ANNUAL ASSESSMENTS. The following provisions shall not operate so as to restrict the Sub Association or the Board in performing the duties and obligations required of the Sub Association or the Board under the Planned Community Act, but they shall be a limitation on discretionary costs and expenses above and beyond such duties and obligations:

- A. The Board of Directors of the Sub Association shall adopt a proposed budget for the Sub Association and set the amount of the regular annual assessment against the Lots at least 90 days in advance of each annual assessment period.
- B. Until the Sub Association makes an assessment for Common Expenses, the Declarant shall pay all Common Expenses as required by the Planned Community Act and the Town of Cary Code. If the assessments are insufficient to pay all Common Expenses, the Declarant may advance expenses for the maintenance and

operation of the Sub Association to the extent that annual assessments assessed against the Owners are inadequate for this purpose. Such advance shall be to the Sub Association and on terms generally available to Declarant from its lending institution. At such time as the majority of the total votes of the Sub Association are no longer held by the Declarant, its successors or assigns, the Declarant shall have no further obligation for maintenance and operation of the Sub Association pursuant to the terms of this section. Notwithstanding the foregoing, Declarant, its successors and assigns, shall be responsible for the payment of assessments and other amounts pursuant to other sections of this Declaration.

SECTION 4.04. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.

In addition to the annual assessments authorized above, the Sub Association may levy in any assessment year a special assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Sub Association Common Area or any other purpose permitted under the Planned Community Act. Any such special assessment shall have the assent of two-thirds (2/3) or more of the total votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

SECTION 4.05. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 4.04.

Written notice of any meeting called for the purpose of taking any action authorized under Section 4.04 shall be sent to all Members not less than 10 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty-seven percent (67%) of all the votes in the Sub Association shall constitute a quorum. If the required quorum is not present, the meeting may be adjourned by a majority vote of those present in person or by proxy and the required quorum at the next meeting shall be reduced by one-half of the required quorum for the previously adjourned meeting as provided in the Planned Community Act. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

SECTION 4.06. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS.

The annual assessments provided for herein shall commence as to a Lot on the earlier of the date such Lot was conveyed by the Declarant to a third party purchaser or the date such Lot becomes a Lot In Use. The first annual assessment for such Lot shall be adjusted according to the number of months remaining in the calendar year.

SECTION 4.07. EFFECT OF NON-PAYMENT OF ASSESSMENTS/REMEDIES OF THE SUB ASSOCIATION.

Any assessment which is not paid within thirty (30) days after the due date shall be delinquent. The Sub Association shall have the option to declare the outstanding balance of any assessment due and payable if any installment thereof shall become delinquent as defined herein.

SECTION 4.08. SUBORDINATION OF THE LIEN TO MORTGAGE. The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage on a Lot. Mortgagees are not required to collect assessments and nothing in this Declaration shall require that failure to pay assessments shall constitute a default under a Mortgage insured by the

U.S. Department of Housing and Urban Development (“HUD”), the U.S. Department of Veterans Affairs (“VA”) or by any other governmental mortgage insurance program, such as those by the Federal Home Loan Mortgage Corporation, the Government National Mortgage Corporation or the Federal National Mortgage Sub Association. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to the foreclosure of any such Mortgage or deed of trust or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer, provided that the Sub Association and Declarant have been notified of said foreclosure prior to the date thereof. Such unpaid assessments extinguished by the foreclosure sale shall be deemed to be a Common Expense collected from all Owners, including the purchaser at foreclosure, his successors and assigns. No sale or transfer shall relieve any such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

SECTION 4.09. EXEMPT PROPERTY. The following portions of the Properties, subject to this Declaration, shall be exempt from the assessment created herein: (1) all portions of the Properties dedicated to and accepted by a local public authority; and (2) the Sub Association Common Area.

SECTION 4.10. LIABILITY OF OWNER. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests, tenants, invitees, contractors, employees or authorized representatives, the cost of such maintenance or repair shall be added to and become part of the assessment applicable to the Lot owned by such Owner.

SECTION 4.11. WORKING CAPITAL FUND. In addition to any other assessment provided in this Declaration, at the earlier of the closing of the first sale of each Lot after such Lot becomes a Lot in Use, or upon the occupancy of such Lot as a dwelling unit, a sum equal to two (2) months of the regular annual assessment applicable to such Lot shall be collected from the purchaser in the event of such sale or from the Owner in the event of such occupancy, and such sum shall be paid to the general operating fund of the Sub Association to be used in the same manner specified for annual assessments. All sums paid into the working capital fund are in addition to and not in lieu of any regular or special assessments for Common Expenses.

SECTION 4.12. SUB ASSOCIATION FUNDS NOT ASSET OF OWNERS. All monies collected by the Sub Association shall be treated as the separate property of the Sub Association, and such monies may be applied by the Sub Association to the payment of any Common Expense or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration and the Organizational Documents of the Sub Association. As monies for any assessment are paid to the Sub Association by any Owner, the same may be commingled with monies paid to the Sub Association by the other Owners. Although all funds and common surplus, including other assets of the Sub Association and any increments thereto or profits derived therefrom, shall be held for the benefit of the Members, no Member 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 an Owner shall cease to be a Member by reason of his divestment of ownership of his Lot, by whatever means, the Sub Association shall not be

required to account to such Owner for any share of the fund or assets of the Sub Association, or for any assessment which may have been paid to the Sub Association by such Owner, as all monies which any Owner has paid to the Sub Association are an asset of the Sub Association which may be used in the operation and management of the Properties.

ARTICLE 5 - ARCHITECTURAL CONTROL AND BUILDING RESTRICTIONS

SECTION 5.01. PURPOSES. The Properties are hereby made subject to the protective covenants and restrictions hereby declared for the purpose of insuring the best use and most appropriate development and improvement of each Lot in the Properties; to protect the Owners against such improper use of surrounding Lots as will depreciate the value of the Properties; to preserve, so far as practicable, the natural beauty of said Properties; to guard against the erection thereof of poorly designed or proportioned structures, and structures built of improper and unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said Properties; to encourage and secure the erection of attractive dwelling units thereon, with appropriate locations thereof on Lots; to secure and maintain proper set-backs from the streets and adequate free spaces between structures; and in general to provide adequately for a high type and quality of improvements in said Properties and thereby to enhance the values of investments made by the purchasers of Lots therein. It is specifically disclosed that different architectural styles, sizes and prices of Patio Homes may be built by the Declarant to provide a variety of housing options.

SECTION 5.02. PLAN APPROVAL REQUIREMENT. For purposes of this Declaration, the term "Improvement" shall mean any hedge, mass landscape planting, building, wall, fence or other structure. Other than Improvements constructed, installed, planted or otherwise made by the Declarant, no Improvement shall be commenced, altered, erected, maintained or permitted to remain upon any Lot, nor shall any addition, alteration, replacement, repair to the exterior or other change in exterior appearance of a Patio Home or Lot be made thereto, nor shall any Improvement be rebuilt after destruction by any hazard until plans and specifications, showing the nature, kind, space, height, color, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant during the period of Class B Membership, and thereafter, the Board of Directors or the Architectural Committee, as the case may be.

The number of bedrooms in a Patio Home shall not be increased either by construction of an addition or the conversion of other areas and no garage may be converted from parking of vehicles to a bedroom or other living area without the approval of the Declarant during the period of Class B Membership, and thereafter, of the Board of Directors or the Architectural Committee, as the case may be. The approval required under this Section for increasing the number of bedrooms in a Patio Home or the conversion of any garage is in addition to any approval which may be required by the City or other governmental body having jurisdiction.

In the event the Declarant, the Board of Directors or the Architectural Committee, as the case may be, fails to approve or disapprove any Improvement within thirty (30) days after all completed plans and specifications and other information reasonably requested have been properly submitted, approval will not be required and the plans and specifications will be deemed to have fully complied with this Article. To the extent not prohibited by the Planned Community Act or by regulations of HUD or VA, the Sub Association shall have the right to charge and collect a reasonable fee for review of such plans and specifications. Nothing herein contained shall be construed to require approval for any Improvement constructed, made, installed or planted by the Declarant nor to permit interference with the development of the Properties by the Declarant so long as said development follows the general plan of development of the Properties approved by FHA and/or VA, if any, or by the City from time to time.

SECTION 5.03. ARCHITECTURAL COMMITTEE. During the period of Class B Membership, the Declarant shall be the Architectural Committee. Upon the expiration or termination of the Class B Membership or upon the earlier relinquishment of the right to act as the Architectural Committee by the Declarant, the Board of Directors may designate the number of and appoint the members of the Architectural Committee on an annual basis. In the event of the death or resignation of any member of the Architectural Committee, the Board of Directors shall designate and appoint a successor. Members of the Architectural Committee may be removed and replaced at any time, with or without cause, and without prior notice, by the Board of Directors. At all times the Board of Directors fails to appoint members of the Architectural Committee pursuant to this Section, the Board of Directors shall be the Architectural Committee.

SECTION 5.04. PROCEDURES. No Improvement shall be commenced, altered, erected, maintained or permitted to remain on any Lot, except by the Declarant, until all plans and specifications therefor and a site plan therefor have been submitted to and approved in writing by the Architectural Committee as to:

- 1 quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, and facing of main elevation with respect to nearby streets;
- 2 conformity and harmony of the external design, color, type and appearance of exterior surfaces;
- 3 location with respect to topography and finished grade elevation and effect of location and use on neighboring Lots and any Improvements situated thereon and drainage arrangement; and
- 4 the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within standards promulgated by the Board of Directors from time to time.

Final plans and specifications (including a site plan showing the location of the contemplated Improvements on the Lot) for all Improvements proposed to be constructed on a Lot shall be submitted to the Architectural Committee for approval or disapproval. The

Architectural Committee is authorized to request the submission of samples of proposed construction materials. Any modification or change to the plans and specifications (specifically including, but without limitation, the above described site plan) approved by the Architectural Committee must again be submitted to the Architectural Committee for its inspection and approval. The Architectural Committee's approval or disapproval as required herein shall be in writing. Once the Architectural Committee has approved the plans and specifications for the proposed Improvements, the construction of such Improvements must be promptly commenced and diligently pursued to completion, and if such construction is not commenced within the time set therefor by the Architectural Committee in the written approval (but in no event later than twelve (12) months after such approval), such approval shall be deemed rescinded and before construction of Improvements can thereafter be commenced on the Lot in question, the plans and specifications therefor must again be approved by the Architectural Committee pursuant to this Article.

The Board of Directors may from time to time publish and promulgate architectural standards which shall be fair, reasonable and uniformly applied in regard to the Lots and shall carry forward the spirit and intention of these covenants, conditions and restrictions. Such standards shall supplement this Declaration. Current copies of the architectural standards shall be available to interested persons at the principal office of the Sub Association for a reasonable cost.

It is the responsibility of the Owner of a Lot to consult with a licensed and qualified architect and/or engineer to prepare or review the plans and specifications for compliance with applicable laws and building codes and to cause the construction, erection and/or installation of Improvements on a Lot to be performed by a licensed and qualified contractor.

SECTION 5.05. CONDITIONS. As a condition to the granting of approval of any request made under this Article, the Architectural Committee may require that the Owner requesting such change be liable for any cost of maintaining or repairing the approved project. If such condition is imposed, the Owner shall evidence his consent thereto by a written document in recordable form satisfactory to the Architectural Committee. Thereafter, the Owner, and any subsequent Owner of the Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree that any cost of maintenance and repair of such Improvement shall be added to and become a part of the annual assessment or charge applicable to such Lot, and subject to the lien rights provided in this Declaration.

SECTION 5.06. GROUNDS FOR DISAPPROVAL/DEFECTS. Refusal of approval of such plans, locations or specifications may be based upon any grounds, including purely aesthetic and environmental, which the Architectural Committee, in its sole discretion, shall deem sufficient.

SECTION 5.07. VERIFICATION OF COMPLIANCE WITH PLANS. The Architectural Committee, or its appointed agents, shall have the right, at its election, but shall not be required, to enter upon any Lot during site preparation or construction, erection or installation of Improvements, to inspect the work being undertaken and to determine that such work is being

performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

SECTION 5.08. ENFORCEMENT. The Architectural Committee shall have the specific, nonexclusive right, but shall not be required, to enforce the provisions contained in this Article and to prevent any violation of the provisions contained in this Article by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions contained herein.

SECTION 5.09. LIMITATION OF LIABILITY. Neither the Architectural Committee nor any of the members thereof shall be liable in damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of services performed pursuant to this Declaration. **NEITHER THE APPROVAL OF PLANS AND SPECIFICATIONS NOR ANY INSPECTION OF IMPROVEMENTS BY THE ARCHITECTURAL COMMITTEE OR ANY OF ITS MEMBERS IS A CERTIFICATION THAT THE PLANS AND SPECIFICATIONS AND/OR THE IMPROVEMENTS CONSTRUCTED IN ACCORDANCE THEREWITH COMPLY WITH APPLICABLE LAWS AND BUILDING CODES. NEITHER THE ARCHITECTURAL COMMITTEE NOR ANY OF THE MEMBERS THEREOF SHALL BE LIABLE OR RESPONSIBLE FOR ANY DEFICIENCIES OR DEFECTS IN THE PLANS AND SPECIFICATIONS SUBMITTED TO IT OR IN ANY STRUCTURE ERECTED ACCORDING TO SUCH PLANS AND SPECIFICATIONS.**

SECTION 5.10. COMPENSATION. No member of the Architectural Committee shall be entitled to compensation arising out of services performed pursuant to this Article. With prior approval of the Board of Directors, the Sub Association shall reimburse members of the Architectural Committee for reasonable out-of-pocket expenses incurred by such members in the performance of their duties as members of the Architectural Committee.

ARTICLE 6 - MAINTENANCE

SECTION 6.01. MAINTENANCE BY SUB ASSOCIATION. Except as specifically provided in this Declaration, the Sub Association shall maintain and repair all portions of the Sub Association Common Area, including but not limited to grass, plants, shrubs, trees, landscaping, sidewalks, private streets, the Stormwater Control Measures if any, and recreation and other facilities, if any. In addition, the Sub Association shall be responsible for maintaining the grass, plants, shrubs, trees, landscaping, walks and parking areas (hereinafter the "Yard Improvements") installed by the Declarant, the Sub Association or the builder who constructed the initial Improvements on a Lot, and any Yard Improvements installed by an Owner with the prior written consent of the Sub Association (but only to the extent that such consent specifically provides that the Sub Association will maintain such added landscaping); provided, however, that: (i) the Sub Association shall not be responsible for maintaining any fence installed on any Lot or any Yard Improvements inside of such fence; (ii) the Sub Association's obligation to maintain shall not include the obligation to replace any plant, shrub or tree on a Lot for any

reason; (iii) the Sub Association may, but is not required to, water Yard Improvements; (iv) the Sub Association shall not be responsible for repair or replacement of any Yard Improvements when such repair or replacement is necessitated by work done by or at the request of any Owner. The Sub Association maintenance of the Yard Improvements shall include the following: (i) the mowing of grass, edging where appropriate, and necessary blowing; (ii) fertilization of grass, bushes and shrubs; (iii) application of weed controls; (iv) yard insect control measures; (v) pruning of shrubs and bushes as appropriate; and (vi) application of pine straw, or other similar material, twice annually in appropriate areas. No Owner or occupant shall install any fence or similar structure on his Lot or plant any vegetation on his Lot except with the prior written approval of the Sub Association. The Sub Association shall have no responsibility or obligation to maintain any Lot or Patio Home except as specifically provided in this Declaration.

SECTION 6.02. OWNER'S MAINTENANCE OBLIGATIONS. Each Owner shall maintain those portions of such Owner's Lot and the Patio Home thereon as are not specifically to be maintained by the Sub Association under Section 6.01 above, including but not limited to: the exterior of the Patio Home, deck, porch, siding, brick, shutters, exterior trim, glass panes, screens, garage doors, doors and windows. The Owner of a Lot improved with a garage and/or served by a driveway shall repair and maintain the garage door and driveway in good order, condition and appearance and shall repair and correct any unsafe or unsightly condition thereon. Each Owner shall be responsible for all repair and maintenance of his Lot except such maintenance and repair specifically required to be provided by the Sub Association under this Declaration or the Organizational Documents. No such maintenance by an Owner shall reduce any assessment payable by him to the Sub Association. Any additional maintenance costs incurred by the Sub Association as a result of an Owner's failure to maintain or repair as provided in this Declaration shall be added to and become a part of the assessment to which such Owner's Lot is subject.

SECTION 6.03. NEGLIGENCE, ETC.. In the event that the need for maintenance or repair of any Lot or Sub Association Common Area is caused through the willful or negligent acts or omissions of an Owner, or such Owner's family, tenants, contract purchasers, guests, invitees, contractors, employees, or authorized representatives, such Owner shall be responsible for the cost of such maintenance and repair, which shall be added to and become a part of the assessment applicable to the Lot owned by such Owner. The Sub Association shall have the right, but not the obligation, to enter onto an Owner's Lot and to perform any maintenance or repair required to be performed by an Owner under this Declaration in the event that an Owner fails to commence any such maintenance or repair within 30 days after written notice from the Sub Association to such Owner specifying the need for such maintenance and repair or such Owner, after commencing such maintenance and repair, fails to diligently pursue to completion such maintenance and repair within a reasonable period of time not exceeding an additional forty-five (45) days; provided, however, no notice nor waiting period shall be required with respect to an emergency condition existing on an Owner's Lot.

ARTICLE 7 - USE RESTRICTIONS

SECTION 7.01. MAINTENANCE OF LOTS. Each Owner shall keep his Lot in an orderly condition and shall keep the Improvements thereon in a suitable state of repair, promptly repairing any damage thereto by fire or other causality. No clothesline may be erected or maintained on any Lot. Except to the extent of any maintenance by the Sub Association, each Owner shall maintain and replace the Yard Improvements on his Lot in a clean and neat condition and shall keep his landscaping trimmed so as not to be unsightly. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever nor for the storage of any property or thing which will cause any noise that will disturb the peace and quiet of the occupants of surrounding Lots, and no trash, rubbish, stored materials, wrecked or inoperable vehicles, vehicles unlicensed for more than thirty (30) days, or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure; provided, however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish, or other debris for collection by governmental or other similar garage and trash removal units. In the event that any Owner fails or refuses to comply with any of the foregoing, the Declarant or Sub Association may demand that the Owner promptly comply with the same by mailing a notice thereof to the Owner at his address, specified in his contract to purchase such Lot or by posting such notice on the Lot. If the Owner has not complied therewith within five (5) days thereafter, the Declarant or Sub Association may enter and correct the same at Owner's expense. Each Owner, by acquiring a Lot subject to these restrictions, agrees to pay such cost promptly upon demand by Declarant or the Sub Association. No such entry as provided herein shall be deemed a trespass.

SECTION 7.02. NUISANCES. No immoral, improper, offensive or unlawful use shall be made of the Properties, or any part thereof, and all valid laws, orders, rules, requirements, ordinances and regulations of all governmental agencies having jurisdiction thereof relating to any portion of the Properties shall be observed. No noxious or unreasonably offensive activities shall be carried on upon any Lot or other portion of the Properties, nor shall anything be done thereon which may be or become a nuisance or an unreasonable annoyance to the neighborhood. Activities associated with the development of the Properties and the construction of Patio Homes on the Properties shall not be deemed offensive nor an annoyance or nuisance if conducted in accordance with the ordinances of the City. Other than in connection with the development of the Properties or the construction and sale of Lots and Patio Homes, no trade materials or inventories may be stored upon a Lot.

SECTION 7.03. RULES AND REGULATIONS. The Board of Directors shall have the power to formulate, adopt, amend, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of the yard spaces of each Lot and the Sub Association Common Area. All rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolutions which shall be maintained in a place convenient to the Owners and available to them for reasonable inspection during normal business hours.

SECTION 7.04. DEVELOPMENT RIGHTS RESERVED. Declarant reserves and shall have the right to exercise, without any consent, approval or authorization of any other

Owner or the Board of Directors, all special declarant rights as provided in this Declaration and/or as permitted in the Planned Community Act, including but not limited to, any right (i) to complete Improvements indicated on plats and plans filed with this Declaration; (ii) to exercise any development right; (iii) to maintain sales offices, management offices, signs advertising the Properties, and models; (iv) to use easements through the Sub Association Common Areas for the purpose of making Improvements within the Properties; (v) to make the Properties subject to a master Sub Association; and (vi) to appoint or remove any officer or member of the Board of Directors of the Sub Association during the period of Class B Membership. Notwithstanding any provisions or restrictions contained in this Declaration, and rules and regulations adopted hereunder or any amendments to the foregoing, it shall be expressly permissible for the Declarant, and its respective agents, employees and approved builders during the period of Class B membership to maintain such facilities and carry out such construction activities as may be reasonably required, convenient or incidental to the development, improvement, completion and sale of any portion of the Properties, including without limitation, the installation and operation of sales and construction trailers and offices, sales models and appropriate signs; provided, however, that in the event a sales office has been maintained in any portion of a Lot such sales office must be removed and the original intended and approved use of such structure must be restored prior to conveyance from the Declarant or its assigns to any third party purchaser.

ARTICLE 8 - EASEMENTS/BUFFERS

SECTION 8.01. UTILITIES. Easements for the installation and maintenance of utilities (including, but not limited to water, sewer, gas, electricity, telephones, telecommunications, cable television and other utilities, such as a master antenna system) and drainage facilities are reserved as indicated on the recorded plats of the Properties. Within these easements no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The Sub Association shall have the power and authority to grant and establish upon, over and across the Sub Association Common Areas such additional easements as are necessary or desirable for the providing of service or utilities to the Sub Association Common Areas or Lots.

SECTION 8.02. ENCROACHMENTS. In the event that any Improvements on a Lot shall encroach upon any Sub Association Common Areas or upon any other Lot as a result of the initial Improvements constructed by Declarant or home builder or for any reason not caused by the purposeful or negligent act of the Owner or agents of such Owner, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Sub Association Common Areas or other Lot for so long as such encroachment shall naturally exist; and, in the event that any portion of the Sub Association Common Areas shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Sub Association Common Areas into any such Lot for so long as such encroachment shall naturally exist.

SECTION 8.03. STRUCTURAL SUPPORT. Every portion of a Patio Home on a Lot which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of all other Patio Homes within the building.

SECTION 8.04. WALKS, DRIVES, PARKING AREAS AND UTILITIES. All of the Properties, including Lots and Sub Association Common Areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, cable television lines, and other public utilities as shall be established prior to the conveyance of such Lots or the Sub Association Common Area by the Declarant, and the Sub Association shall have the power and authority to grant and to establish in, over, upon, and across the Sub Association Common Areas conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Properties without the assent of the membership except where the assent of the membership is required by applicable law. If a Lot is served by a driveway as indicated on a recorded plat of the Properties (provided such plat was approved by the Declarant or the Sub Association), there is created an appurtenant easement over the Sub Association Common Areas in favor of such Lot for the construction, reconstruction, repair and maintenance of such driveway and for the exclusive use of such driveway for ingress, egress, regress and parking purposes. Such driveway easement is subject to water, sewer, cable and utility lines lying under such driveway and the repair and maintenance of such lines. The Sub Association and the other Owners shall not obstruct or interfere with the use of such driveway except as is incident to the repair and maintenance of Sub Association Common Areas and water, sewer, cable and utility lines. If the Sub Association obstructs or interferes with the permitted uses of such driveway, the Sub Association shall make reasonable efforts to provide alternative parking for such Lot during the period of obstruction or interference.

SECTION 8.05. EASEMENTS APPURTENANT TO LOTS. All private streets and driveway areas in the Sub Association Common Areas shall be subject to an easement in favor of every Lot to which they are adjacent or which they are intended to serve and shall be deemed appurtenant to each such Lot, whereby the Owner of each such Lot shall be entitled to use them as a means of ingress, egress and regress and such other uses as shall have been designated. Such easement shall be superior to the lien of every mortgage or deed of trust.

SECTION 8.06. EMERGENCIES, ETC.. Every Lot and Patio Home shall be subject to an easement for entry by the Sub Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot or within any Patio Home on any Lot and that endangers any Lot or portion of the Sub Association Common Areas, or as necessary to correct any grading for drainage purposes.

SECTION 8.07. EASEMENTS TO SUB ASSOCIATION. An easement is hereby granted to the Sub Association, its officers, agents, employees, and authorized representatives, including but not limited to management companies, to enter in or to cross over the Sub Association Common Area in connection with the exercise of any right, duty or obligation of the Sub Association under this Declaration or its Organizational Documents.

SECTION 8.08. EASEMENT AND RIGHT OF ENTRY FOR REPAIR, MAINTENANCE AND RECONSTRUCTION. Each Owner of a Lot shall have shall have a perpetual access easement over the adjoining Lots and/or Sub Association Common Area to the extent reasonably necessary to perform repair, maintenance or reconstruction of the Patio Home on such Owner's Lot. Such repair, maintenance or reconstruction shall be done expeditiously, in good and workmanlike manner and in compliance with all applicable laws, ordinances and regulations, and upon completion of the work, the Owner shall restore the adjoining Lot to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

SECTION 8.09. ACCESS EASEMENT. Each Owner shall have the right to ingress and egress over, upon and across the Sub Association Common Area as necessary for access to his Lot and shall have the right to lateral support for his Lot.

SECTION 8.10. EASEMENT RESERVED BY DECLARANT FOR DEVELOPMENT. Until seven (7) years from the date of this recording, notwithstanding any provisions contained in this Declaration to the contrary, Declarant hereby expressly reserves unto itself and its successors and assigns including, but not limited to Persons constructing dwellings and other Improvements on the Sub Association Common Area or Lots, a nonexclusive, right, privilege and easement over, under, in, and/or on the Sub Association Common Area, without obligation and without charge, for the purposes of construction, installation, relocation, development, sale, maintenance, repair, replacement, use and enjoyment, and/or otherwise dealing with the Properties, including but not limited to construction of the Amenities and installation of utilities. The reserved easement shall constitute a burden on the title to the Properties and specifically includes, but is not limited to:

- A. The right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on and through the Sub Association Common Area; and the right to construct the Amenities; and the right to tie into any portion of the Properties with driveways, parking areas, and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities, constructed or installed in, on, under, and/or over the Properties any damage caused by the exercise of such rights shall be repaired and the damaged property shall be restored to as near the same condition, as reasonable and practical, as that which existed prior to the exercise of such rights;
- B. The right to construct, install, replace, relocate, maintain, authorize, repair, use, and enjoy signs, model residences, sales offices, construction offices and business offices as, in the sole opinion of Declarant, may be required, convenient, desirable, or incidental to the construction and sale of residences on the Lots;

- C. No rights, privileges, and easements granted or reserved herein shall be merged into the title of any portion of the Properties, including, without limitation, Lots or Sub Association Common Areas conveyed to the Sub Association, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quitclaim deed from Declarant releasing such right, privilege, or easement by express reference thereto; and
- D. This section may not be amended without the written consent of Declarant.

SECTION 8.11. DRAINAGE. The Declarant reserves for itself and its assignees, including but not limited to the Sub Association, the right and easement to enter upon any Lot or the Sub Association Common Area for the purpose of altering the flow of surface water in, on or across such Lot or Sub Association Common Area in order to correct surface water drainage problems existing on any Lot or the Sub Association Common Area and for the purpose of installing, repairing, replacing and maintaining Stormwater Control Measures. Any alterations made pursuant to the foregoing easement shall be made at the sole cost and expense of the Declarant or its assigns, as the case may be, and shall not unreasonably interfere with the Owner's use and enjoyment of his Lot. Declarant hereby agrees that in exercising the rights reserved above, all debris, materials, excess soil and rock from an affected Lot shall be removed, all excavations shall be filled, all topsoil and grass on all disturbed earth shall be replaced and reseeded. Declarant may give its written consent to an Owner to alter the flow of surface water in, on or across such Owner's Lot in order to correct surface water drainage problems existing on such Lot; provided, however, that the Declarant during the period of the Class B Membership, and thereafter the Board of Directors or the Architectural Committee, as the case may be, must give its written approval to the Owner's plan to alter the flow of surface water on such Owner's Lot.

ARTICLE 9 - ADDITIONS TO THE PROPERTIES

SECTION 9.01. BY DECLARANT.

- (A) Declarant may cause Additional Property (including Sub Association Common Areas), including without limitation all or a portion of the Additional Property described on Exhibit B attached hereto, to be made subject to the terms and scheme of this Declaration by filing one or more Supplemental Declarations in the offices of the Register of Deeds of Wake and Chatham Counties, containing a description of the Additional Property and a statement by the Declarant of its intent to extend the operation and effect of this Declaration to the Additional Property. Any such Supplemental Declaration need only be executed by Declarant and the owner of the Additional Property being subjected to this Declaration, and shall not require the execution, joinder, or consent

of any other party whatsoever. The rights set forth in this subsection (A) may be exercised by Declarant at any time and from time to time until December 31, 2027.

- (B) Any Supplemental Declaration may contain complementary additions to the covenants and restrictions contained herein and may be necessary in the judgment of the Declarant to reflect the different character of the Additional Property.
- (C) Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that, so long as Declarant owns any part of the Properties, the prior written consent of Declarant shall be required for any parties to modify, change and/or amend, in whole or in part, the terms and provisions of this Declaration, any Supplemental Declaration and/or any Additional Declaration or to impose new or additional covenants, conditions, restrictions or easements on any part of the Properties.

SECTION 9.02. BY MASTER ASSOCIATION. Any annexation or addition of Additional Property pursuant to the terms and conditions of the Master Covenants.

SECTION 9.03. BY SUB ASSOCIATION. Any other addition of Additional Property shall require the assent of two-thirds (2/3) of each Class of Membership of the Sub Association.

SECTION 9.04. PROCEDURE FOR SUB ASSOCIATION. Annexation of Additional Property shall be accomplished by recording in the Wake and Chatham County Registry a Declaration of Annexation, duly executed by the Sub Association, describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this Declaration. The Additional Property shall be deemed annexed to the Properties on the date of recordation of the Declaration of Annexation. Upon annexation, the Additional Property shall be subject to this Declaration and all Owners shall automatically become Members of the Sub Association. Sub Association Common Areas within the Additional Property shall be conveyed to the Sub Association prior to the sale of any Lot within the Additional Property. Title to such Sub Association Common Areas shall comply with this Declaration.

The Declaration of Annexation filed with respect to the Additional Properties in the Wake and Chatham County Registry shall extend the scheme of this Declaration and the jurisdiction of the Sub Association to such Additional Property and thereby subject such Additional Property to the rights, benefits, agreements, easements, restrictions and obligations set forth herein, including, but not limited to, assessments as herein determined.

The obligation for Owners of Lots in any portion of the Additional Property to pay the assessments described in Article 2 and Article 4 hereof shall commence upon the filing of the

Declaration of Annexation annexing such portion. The Owners of such Lots shall have the same voting rights as the Owners of Lots in the Properties, and such voting rights shall commence as of the date of the filing of the Declaration of Annexation.

ARTICLE 10 - RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

SECTION 10.01. ENTITIES CONSTITUTING INSTITUTIONAL LENDERS.

"Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan Sub Associations, insurance companies or other firms or entities customarily affording loans secured by first liens on residences, and eligible insurers and governmental guarantors.

SECTION 10.02. OBLIGATION OF SUB ASSOCIATION TO INSTITUTIONAL LENDERS. So long as any Institutional Lender shall hold any first lien upon any Lot, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights:

- A. To inspect the books and records of the Sub Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Sub Association prepared by an accountant designated by the Board of Directors of the Sub Association, such financial statement or report to be furnished by May 15th of each calendar year;
- B. To be given notice by the Sub Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration of Covenants, Conditions and Restrictions, the Organizational Documents of the Sub Association or of any proposed abandonment or termination of the Sub Association or the effectuation of any decision to terminate professional management of the Sub Association and assume self management by the Sub Association;
- C. To receive notice of any condemnation or casualty loss affecting the Sub Association Common Area or any portion thereof;
- D. To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Sub Association;
- E. To have the right to approve of any alienation, release, transfer, hypothecation or other encumbrance of the Sub Association Common Area, other than those specific rights vested in the Sub Association under Article II hereof; and
- F. To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning a Lot encumbered by a mortgage held by the Institutional

Lender, such notice to be given in writing and to be sent to the principal office of such institutional Lender, or to the place which it may designate in writing.

SECTION 10.03. REQUIREMENTS OF INSTITUTIONAL LENDER. Whenever any Institutional Lender desires to avail itself of the provisions of this Article, it shall furnish written notice thereof to the Sub Association by certified mail at the address of the Sub Association's registered agent identifying the Lot or Lots upon which any such Institutional Lender holds any first mortgage together with sufficient pertinent facts to identify such mortgage, or identifying any Lot or Lots owned by such Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Sub Association to such Institutional Lender.

ARTICLE 11 - GENERAL PROVISIONS

SECTION 11.01. UTILITY CHARGES. The Declarant reserves the right to subject a Lot (prior to the conveyance of such Lot to a third party) and any other portion of the Properties, to contracts with public utility companies for the installation of underground utility service and the installation of street lighting. Declarant further reserves the right to connect to each Lot necessary water and sewer service which may require a continuous monthly charge to the Owner of the Lot. Upon acceptance of a deed to the Lot each Owner agrees to pay said continuing monthly charges, if any.

SECTION 11.02. ENFORCEMENT. The Sub Association and each Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration and the Organizational Documents. Failure by the Sub Association or by any Owner to enforce any such restriction, condition, covenant, reservation, lien or charge shall in no event be deemed a waiver of the right to enforce any such restriction, condition, covenant, reservation, lien or charge at any other time or in connection with the same or any other event, nor shall it be deemed a waiver of the right to request that law enforcement, public safety and animal control officers come on the Properties to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

SECTION 11.03. INSURANCE. The Board of Directors shall procure and maintain public liability and property damage insurance, insuring: each member of the Board of Directors; the manager, if any; and the Sub Association against any liability to the public or to the Owners (and their invitees, agents, and employees) arising out of or incident to the ownership and/or use of the Sub Association Common Areas, or such other areas for which the Sub Association is responsible. The insurance shall be issued on a comprehensive liability basis and shall contain a cross liability endorsement under which the rights of each named insured under the policy shall not be prejudiced with respect to his action against another named insured. The amount of such public liability insurance shall be determined by the Board of Directors, but in no

event shall it be less than \$1,000,000.00 per occurrence with regard to the Sub Association and each individual director.

There shall also be obtained such other insurance coverage as the Board of Directors shall determine from time to time to be desirable and necessary. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors as a Common Expense of the Sub Association.

SECTION 11.04. FIDELITY BONDS. The Sub Association shall maintain blanket fidelity bonds or other similar insurance coverage for all officers, directors, trustees and employees of the Sub Association and for all other persons handling or responsible for funds of or administered by the Sub Association. Where the Sub Association has delegated some or all of the responsibility for the handling of funds to a management agent, fidelity bonds or other similar insurance coverage shall be required for such management agent's officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Sub Association.

The total amount of fidelity bond coverage shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Sub Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event shall the aggregate amount of such fidelity bonds be less than a sum equal to three months' aggregate assessments on all Lots plus reserve funds.

Fidelity bonds required herein shall:

- A. name the Sub Association as an obligee;

- B. contain waivers by the issuers of the fidelity bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; and
- C. to the extent available without the payment of an additional premium, provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days prior written notice to the Sub Association, to any such agent as the Sub Association shall designate to negotiate settlement of insurance claims on behalf of the Sub Association, and to any institutional lender servicing on behalf of the Federal National Mortgage Association any loan secured by any Lot.

The premiums on all such fidelity bonds for the Sub Association (including premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Sub Association as a Common Expense.

Notwithstanding anything to the contrary, in lieu of fidelity bonds, insurance providing similar coverage or protection may be provided and references to "fidelity bonds" shall include such insurance.

SECTION 11.05. AMENDMENT. The covenants, conditions and restrictions of this Declaration shall run with the land, and shall inure to the benefit of and be enforceable by the Sub Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of thirty (30) years from the date this Declaration is recorded, after which time, this Declaration shall automatically be extended for successive periods of ten (10) years each. Except as specifically otherwise provided herein, the covenants, conditions and restrictions of this Declaration may be amended as provided in this Article by the affirmative vote of or by an instrument signed by the Owners of not less than sixty-seven percent (67%) of the Lots. Any amendments must be recorded in the Office of the Register of Deeds of Wake and Chatham County, North Carolina, or such other place as designated for the recording of documents affecting real estate (the "Wake and Chatham County Registry").

SECTION 11.06. VA/HUD APPROVAL. As long as there is a Class B membership, the following actions will require prior approval of the VA and/or HUD: annexation of additional properties (except as permitted by applicable HUD or VA regulations for annexations by the Declarant pursuant to a right reserved under the Declaration), mergers, consolidations and dissolution of the Sub Association, mortgaging of Sub Association Common Areas, withdrawal of or dedication of or other transfer of Sub Association Common Areas to persons other than the Sub Association, and amendment of this Declaration.

SECTION 11.07. TOWN APPROVAL REQUIRED FOR CERTAIN AMENDMENTS. No amendment to the Declaration affecting Stormwater Control Measures or the replacement fund shall be made without the prior written consent of the Town Attorney of the Town, if required.

SECTION 11.08. CERTIFICATE OF AMENDMENTS. If any amendment to these covenants, conditions, and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Sub Association. Thereupon, the Board of Directors shall, within thirty (30) days, do the following:

A. Reasonably assure itself that the amendment has been approved or executed by the Owners of the required number of Lots (for this purpose, the Board may rely on its roster of Members, and shall not be required to cause the title to any Lot to be examined).

B. Attach to the amendment a certification as to its validity, which certification shall be executed by the Sub Association in the same manner that these were executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS OF BALI PATIO HOMES SUB
ASSOCIATION, INC.

By authority of its Board of Directors, the Bali Patio Homes Sub Association, Inc. hereby certifies that the foregoing instrument has been duly approved or executed by the Owners of sixty-seven percent (67%) of the Lots of the Bali Patio Homes and is therefore a valid amendment to existing Declaration Of Covenants, Conditions and Restrictions for Bali Patio Homes.

BALI PATIO HOMES SUB ASSOCIATION, INC.

BY: _____
President

C. Immediately and within the thirty (30) day period, aforesaid, cause the amendment to be recorded in the Office of the Register of Deeds of Wake and/or Chatham County, North Carolina.

All amendments shall be effective from the date of recordation in the Office of the Register of Deeds of Wake and/or Chatham County, North Carolina; provided, however, that no such instrument shall be valid until it has been indexed in the name of the Sub Association. When any instrument purporting to amend the covenants, conditions, and restrictions has been certified by the Board of Directors, recorded and indexed as provided in this section, it shall be conclusively presumed that such instrument

constitutes a valid amendment as to all Persons thereafter purchasing any Lot. All amendments shall be approved as set forth herein, as required.

SECTION 11.09. VOTING. Voting by Members of the Sub Association shall be in accordance with the applicable provisions set forth in the Sub Association's By-Laws.

SECTION 11.10. SEVERABILITY. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

SECTION 11.11. GENDER AND GRAMMAR. The singular, wherever used herein shall be construed to mean the plural when applicable and the necessary grammatical changes required to make provisions hereby apply to either corporations or individuals, man or woman, shall in all cases be assumed as though in each case fully expressed.

SECTION 11.12. LIABILITY EXEMPTIONS. In no case shall the City be responsible for failing to provide any emergency or regular fire, police or other public service to the Sub Association Common Area or the Lots or to their occupants when such failure is due to lack of access to such areas due to inadequate design or construction, blocking of access routes, inadequate maintenance, or any other factor within the control of the Declarant, the Sub Association, the Owners or their occupants. In no case shall the City or the State be responsible for maintaining any private street. Such responsibility shall rest with the Sub Association and Owners in that such private streets will not be constructed to the minimum standards sufficient to allow their inclusion for public maintenance.

SECTION 11.13. ADDRESS. Each Member agrees to keep Sub Association informed of his address at any time and any notice sent or delivered to said address shall be sufficient. Each new Member agrees to provide the Sub Association with evidence of his Ownership for preparation of a membership roster and the roster as so completed shall be sufficient evidence as the Ownership of each Lot. If a Member fails to provide the Sub Association with its address or otherwise fails to keep its address current, the Sub Association may use the address shown on the Wake and Chatham County tax records for the Owner of the Lot for which such membership exists as the Member's address.

SECTION 11.14 DISPUTE RESOLUTION.

A. Consensus for Sub Association Action.

(1) Except as provided in this Section, the Sub Association may not commence a legal proceeding or an action under this Article without the approval of at least two-thirds of the Members. This Section shall not apply, however, to (i) actions brought by the Sub Association to enforce this Declaration or the Organizational Documents (including, without limitation, the foreclosure of liens); (ii) the imposition and collection of assessments; (iii) proceedings

involving challenges to ad valorem taxation; or (iv) counterclaims brought by the Sub Association in proceedings instituted against it.

(2) Prior to the Sub Association or any Member commencing any proceeding to which Declarant is a party, including but not limited to an alleged defect of any Improvement, Declarant shall have the right to be heard by the Members, or the particular Member, and to access, inspect, correct the condition of, or redesign any portion of any Improvement as to which a defect is alleged or otherwise correct the alleged dispute.

B. **Alternative Method for Resolving Disputes.** Declarant, its officers, directors, employees and agents; the Sub Association, its officers, directors and committee members; all Persons subject to this Declaration; any builder, its officers, directors employees and agents; and any Person not otherwise subject to this Declaration who agrees to submit to this Article (each such entity being referred to as a "Bound Party") agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 11.14(C) (collectively, "Claims") to the procedures set forth in Section 11.14(D).

C. **Claims.** Unless specifically exempted below, all Claims between any of the Bound Parties regardless of how the same might have arisen or on what it might be based including, but not limited to Claims (a) arising out of or relating to the interpretation, application or enforcement of the Declaration or the Organizational Documents or the rights, obligations and duties of any Bound Party under the Declaration or the Organizational Documents, (b) relating to the design or construction of Improvements; or (c) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party shall be subject to the provisions of Section 11.14(D).

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 11.14 (D):

(1) any suit by the Sub Association against any Bound Party to enforce the provisions of Article 4 (Covenant For Assessments);

(2) any suit by the Sub Association or Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Sub Association's ability to act under and enforce the provisions of Article 5 (Architectural Control and Building Restrictions), Article 6 (Maintenance) or Article 7 (Use Restrictions);

(3) any suit between or among Owners, which does not include Declarant, a Builder or the Sub Association as a party, if such suit asserts a Claim

which would constitute a cause of action independent of the Declaration or the Organizational Documents; and

(4) any suit in which any indispensable party is not a Bound Party. With the consent of all parties hereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 11.14 (D).

D. Mandatory Procedures.

(1) **Notice.** Any Bound Party having a Claim (“Claimant”) against any other Bound Party (“Respondent”) (the Claimant and the Respondent referred to herein being individually, as a “Party,” or, collectively, as the “Parties”) shall notify each Respondent in writing (the “Notice”), stating plainly and concisely:

- (a) the nature of the Claim, including the Persons involved and Respondent’s role in the Claim;
- (b) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (c) the proposed remedy; and
- (d) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(2) **Negotiation and Mediation.**

- (a) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.
- (b) If the Parties do not resolve the Claim within 30 days after the date of the Notice (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), Claimant shall have 30 days to submit the Claim to mediation under the auspices of the American Arbitration Sub Association (“AAA”) in accordance with the AAA’s Supplemental Mediation Procedures for Residential Construction.
- (c) If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall

release or discharge Respondent from any liability to any Person other than the Claimant.

- (d) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such other time as determined by the mediator or agreed to by the Parties, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 11.14 (D) and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 11.14 (D). In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including without limitation, attorneys' fees and court costs.

(3) **Binding Arbitration.**

- (a) Upon Termination of Mediation, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Supplemental Arbitration Procedures for Residential Construction. Such claims shall not be decided by or in a court of law. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. If the claimed amount exceeds \$250,000.00, the dispute shall be heard and determined by three arbitrators. Otherwise, unless mutually agreed to by the parties, there shall be one arbitrator. Arbitrators shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

- (b) Unless provided otherwise by AAA's Supplemental Arbitration Procedures for Residential Construction, each Party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the non-contesting party shall be awarded reasonable attorneys' fees and expenses incurred in defending such contest. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator(s).
- (c) The award of the arbitrator(s) shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

E. **Amendment of Article.** Notwithstanding any other provision to the contrary, without the express prior written consent of Declarant, this Article may not be amended for a period of twenty years from the effective date of this Declaration.

SECTION 11.16. PROHIBITION AGAINST SUB ASSOCIATION ENTERING INTO LONG TERM CONTRACT WHILE DECLARANT IN CONTROL OF BOARD OF DIRECTORS. Any contract or agreement entered into by the Sub Association during any period of Class B Membership shall be subject to the right of the Sub Association to terminate such contract or agreement, without cause, which is exercisable without penalty at any time upon not more than 90 days notice to the other party.

SECTION 11.17. CONFLICTS. In the case of any conflict between the Declaration and the Articles of Incorporation or By-Laws of the Sub Association, the Declaration shall control, and in the case of any conflict between the Articles of Incorporation and the Bylaws of the Sub Association, the Articles shall control.

[The rest of this page is intentionally left blank. Signature page to follow.]

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as of the day and year first above written.

LENNAR CAROLINAS, LLC, A
DELAWARE LIMITED LIABILITY
COMPANY

By: [Signature]

Printed Name: Richard E Sherman

Its: Vice President

STATE OF NORTH CAROLINA
COUNTY OF Wake

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Richard E Sherman Vice President Lennar Carolinas LLC

Date: 11/28/07

[Signature]

Signature of Notary Public
Printed Name: Sabrina Morris Stokes
My commission expires: 4/6/2010



Exhibit A

Property Initially Submitted

BEING all of Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 & 91 in MF5, Stonewater PUD recorded in Book of Maps 2007, Pages 1341 through 1345, inclusive, Wake County Registry and Plat Slide 2007, Pages 232 through 236, Chatham County Registry.

Exhibit B

Additional Land

Situated in White Oak Township, Wake County, N.C. and being a portion of a tract of land labeled as MF-5, containing 740,696 S.F. (17.004 ac.), and also situated in Williams Township, Chatham County, N.C., a portion of a tract of land labeled as MF-5, containing 5,449 S.F. (0.125 ac.), as shown on a map dated October 4, 2004, revised October 12, 2004, entitled "Subdivision Map Stonewater P.U.D., White Oak TWS'P, Wake County, N.C., Williams TWS'P., Chatham County, N.C., prepared for Waterford Stonewater, LLC" by Chas. H. Sells, Inc., and recorded in Book of Maps 2005, Page 88 through 91, Chatham County Registry and recorded in Book of Maps 2005, Page 495 through 498, Wake County Registry.



NORTH CAROLINA Exhibit C

Department of The Secretary of State

To all whom these presents shall come, Greetings:

I, ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF INCORPORATION

OF

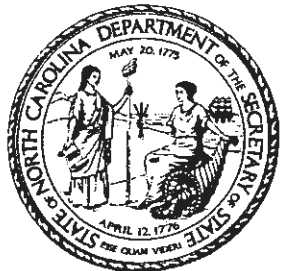
BALI PATIO HOMES SUB ASSOCIATION, INC.

the original of which was filed in this office on the 3rd day of October, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 3rd day of October, 2007.

Elaine F. Marshall

Secretary of State



Prepared by:
 Russell Law Group, PLLC
 Post Office Box 19001
 Raleigh, NC 27619
 (919) 510-6801 Phone (919) 510-6802 Fax
 www.russelllawgroup.org

Exhibit D

**BYLAWS
 OF
 BALI PATIO HOMES SUB ASSOCIATION, INC.**

**ARTICLE I
 NAME AND LOCATION**

The name of the corporation is BALI PATIO HOMES SUB ASSOCIATION, INC. (hereinafter referred to as "Sub Association"). The principal office shall be located at 1201 Edwards Mill Road, Suite 301, Raleigh, North Carolina. The location of the principal office of the Sub Association may be changed by the Board of Directors. Meetings of Members and directors shall be held at such places within North Carolina as shall be designated by the Board of Directors.

**ARTICLE II
 DEFINITIONS**

Section 1. "Act" or "Planned Community Act" is defined as the North Carolina Planned Community Act, currently contained in Chapter 47F of the North Carolina General Statutes, and including all amendments, supplements and replacements as enacted from time to time.

Section 2. "Additional Property" is defined as all real property subjected to or annexed to the Declaration subsequent to the recording of the Declaration in the Registry, either by Supplemental Declaration or by merger or consolidation, as provided herein.

Section 3. "Assessment" shall mean and refer to the share of the Common Expenses from time to time assessed against a Lot and its Owner by the Sub Association in the manner herein provided.

Section 4. "Board of Directors" shall mean and refer to the Board of Directors of the Sub Association, which is the governing body of the Sub Association.

Section 5. "Bylaws" shall mean and refer to these Bylaws of the Sub Association as amended from time to time.

Section 6. "Common Area" shall mean that certain portion of the Properties (including the improvements thereto) owned by the Sub Association for the common use and enjoyment of the Owners, including Open Space Areas, open space/protective yard, parking areas, and any recreational facilities. Any Stormwater Control Measures serving more than one Lot, which are situated outside the public street rights of way, are Common Areas, including any stormwater management area.

Section 7. "Common Expenses" shall mean and refer to all sums lawfully assessed against a Lot by the Sub Association; expenses of administration, maintenance, repair or replacement of the Common Areas, expenses agreed upon as Common Expenses by the Sub Association; expenses declared Common Expenses by the provisions of Declaration or these Bylaws; and insurance premiums.

Section 8. "Declarant" shall mean and refer to Lennar Carolinas, LLC, a Delaware limited liability company, its successors and assigns.

Section 9. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions for Bali Patio Homes at Stonewater and all valid amendments hereto applicable to the Properties recorded in the Office of the Register of Deeds of Wake and Chatham Counties, North Carolina.

Section 10. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area and road rights-of-way which are offered for public dedication.

Section 11. "Member" shall mean and refer to every person or entity who is a record Owner of a fee simple or undivided fee simple interest in any Lot that is subject by the Declaration to assessments by the Sub Association; provided, however, that any such person or entity who holds such title or interest merely as security for the performance of an obligation shall not be a Member of the Sub Association.

Section 12. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 13. "Properties" shall mean and refer to that certain real property more particularly described in the Declaration for Bali Patio Homes at Stonewater and such additions thereto as may hereafter be brought within the jurisdiction of Sub Association.

Section 14. "Stormwater Control Measures" shall mean and refer to the stormwater facilities situated outside the public street rights-of-way and serving more than one lot and located on the Property as private drainage easements or stormwater management areas designated on recorded plats of the Property.

Section 15. "Sub Association" shall mean and refer to BALI PATIO HOMES SUB ASSOCIATION, INC., its successors and assigns.

Section 16. "Subdivision Plan" is defined as the most current development plan approved by the Town of Cary for any portion of the Properties or Additional Property, including a subdivision plan, site plan, group housing plan or cluster unit development plan. When two or more Subdivision Plans are approved for the same portion of the Properties, the most current and most specific plan controls.

ARTICLE III **MEETINGS OF MEMBERS**

Section 1. Members. Declarant, for so long as it shall be an Owner, and every person or entity who is a record Owner of a fee simple or undivided fee simple interest in any dwelling unit or lot that is subject by the Declaration to assessments by the Sub Association shall be a Member of the Sub Association; provided, however, that any such person or entity who holds such title or interest merely as security for the performance of an obligation shall not be a Member of the Sub Association. Membership shall be appurtenant to and may not be separated from ownership of any dwelling unit or site which is subject to assessment by the Sub Association. Ownership of a Lot shall be the sole qualification for Membership. The Board of Directors of the Sub Association may make reasonable rules relating to the proof of ownership. No Owner shall have more than one Membership, except as expressly provided hereinafter.

Section 2. Membership Classes. The Sub Association shall have two classes of voting Membership:

Class A: Class A Members shall be all Owners of Lots with the exception of the Class B Member, if any. Class A Members shall be entitled to one (1) vote for each Lot owned. The Class B Member shall be a Class A Member upon the termination of Class B Membership.

Class B: The Class B Member shall be the Declarant and its successors or assigns and each Class B Member shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the occurrence of any of the following events, whichever occurs first:

- (a) When the total votes outstanding in Class A membership equals the total votes outstanding in Class B membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in subparagraph (b) below, additional land is annexed to the Sub Association without the assent of Class A Members for the development of such additional land by the Declarant, as provided in this Declaration, but in any event the Class B membership shall terminate when 75% of the Lots have been deeded to Owners other than the Declarant;

- (b) Until seven (7) years from recording of the Declaration; or
- (c) Upon the surrender of the Class B membership by the Declarant.

Section 3. Voting Right Suspension. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and for any period during which any assessment of a Member remains unpaid according to the provisions of the Declaration. Such rights shall not be suspended without notice and opportunity to be heard.

Section 4. Voting. The total vote of the Sub Association shall consist of the sum of the votes of the Class A Members and Class B Members present in person or by Proxy at a legally constituted meeting at which a quorum is present. Quorum and notice requirements shall be as provided in these By-Laws except when otherwise specified in the Declaration.

When more than one person holds an interest in any dwelling unit or Lot, all such persons shall be Members; and the vote for such dwelling unit or Lot shall be exercised as they among themselves determine; however, in no event may more than one vote be cast with respect to any one dwelling unit or Lot owned by Class A and B Members and in no event shall fractional votes be allowed. When one or more co-owners signs a proxy or purports to vote for his or her co-owners, such vote shall be counted unless one or more other co-owners is present and objects to such a vote or, if not present, submits a proxy or objects in writing delivered to the Secretary of the Sub Association before the vote is counted. Cumulative voting is not allowed.

A persons or entity's Membership in the Sub Association shall terminate automatically whenever such person or entity ceases to be an Owner, but such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Sub Association or this Declaration during the period of such ownership, or impair any rights or remedies which the Sub Association or any other Owner has with regard to such former Owner.

Section 5. Right of Declarant to Representation on Board of Directors of the Sub Association. Notwithstanding anything contained herein to the contrary, until December 31, 2012, or until Declarant shall have conveyed seventy-five percent (75%) of the Properties, whichever occurs first, Declarant (or its expressed assignee of the right granted in this section) shall have the right to designate and select any person or persons to serve on any Board of Directors, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or these By-Laws.

Declarant shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and replace such person or persons with another person or persons to act and serve in the place of any director or directors so removed. Any director designated and selected by Declarant need not be an Owner. Any representative of Declarant serving on the Board of Directors of the Sub Association shall not be required to disqualify himself from any vote upon any contract or matter between Declarant and the Sub Association where Declarant may have pecuniary interest or other interest.

ARTICLE IV **MEETINGS OF MEMBERS**

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Sub Association. Each subsequent regular meeting of the Members shall be held in the same month of each year thereafter unless a different date is fixed by the Board of Directors.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or Board of Directors of the Sub Association, or by any Member pursuant to the written request of the holders of not less than one-tenth of all votes of Class A and Class B Membership. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in said notice.

Section 3. Place of Meetings. Meetings of the Members shall be held at such place, within Wake or Chatham Counties, as may be determined by the Board of Directors.

Section 4. Notice of Meeting. Except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws, written or printed notice stating the time and place of the meeting shall be delivered not less than ten (10) nor more than sixty (60) days before the date of any Membership meeting, either personally, by mail or any other means allowed under the Planned Community Act, by or at the direction of the President, the Secretary, or other person calling the meeting, to each Member of record entitled to vote at such meeting; provided that such notice must be given not less than twenty days before the date of any meeting at which a merger or consolidation is to be considered. If mailed, such notice shall be deemed to be delivered to the Member at his address as it appears on the record of Members of the Sub Association, with postage thereon prepaid.

In the case of a special meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called, but in the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted thereat unless such a statement is required by the provisions of the North Carolina Non-profit Corporation Act.

When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty days, it is not necessary to give any notice of the adjourned meeting other than by announcement at the meeting at which the adjournment is taken.

Section 5. Quorum. Except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws, the presence at the meeting of Members or of proxies entitled to cast, twenty percent (20%) of the votes appurtenant to each Class of Lots in combination (Class A and B) shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 6. Proxies. Voting may be either in person or by one or more agents authorized by a written proxy executed by the Member or by his duly authorized attorney in fact. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot or may cease upon written notice of cancellation of proxy by Member.

Section 7. Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Sub Association to be kept in the minute book of the Sub Association.

Section 8. Loss of Right to Vote. The vote of any Member who is shown on the books or records of the Sub Association to be more than sixty (60) days delinquent in any payment due the Sub Association shall not be an eligible vote and shall not be counted for purposes of deciding any question so long as such delinquency is not cured, nor shall such Member be eligible to be elected to not remain on the Board of Directors.

ARTICLE V **BOARD OF DIRECTORS**

Section 1. General Powers. The business and affairs of the Sub Association shall be managed by its Board of Directors.

Section 2. Number, Term and Qualifications. The number of directors constituting the Board of Directors shall be five (5). At this first annual meeting after transition, the Members may elect two (2) directors to serve for terms of one year, two (2) directors to serve for terms of two years, and one director to serve for a term of three years. At subsequent annual meetings thereafter, the Members shall elect the number of directors needed to fill the vacancy or vacancies created by the director or directors

whose term(s) is (are) expiring to serve for a term of three (3) years. Directors need not be Members of the Sub Association.

Section 3. Election of Directors. Except as provided in Section 6 of this Article V, the directors shall be elected at the annual meeting of Members; and those persons who receive the highest number of votes shall be deemed to have been elected. If any Member so demands, the election of directors shall be by ballot. Cumulative and fractional voting is prohibited.

Section 4. Election. The directors may be elected by secret written ballot, if a Member so demands, at the annual meeting of the Members. In such election, the Members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled under the provisions of Article III of these By-Laws. The persons receiving the highest number of votes shall be elected.

Section 5. Removal. Any director may be removed at any time with or without cause, by a majority vote of the Members, or by the Declarant pursuant to the provisions of these By-Laws.

Section 6. Vacancies. Any vacancy occurring in the Board of Directors may be filled by the selection of a successor by the remaining Directors, who shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the Directors.

Section 7. Compensation. No director shall receive compensation for any service he may render to the Sub Association in the capacity of director. However, any director may be reimbursed for actual expenses incurred in the performance of his/her duties.

ARTICLE VI MEETINGS OF DIRECTORS

Section 1. Regular Meetings. A regular meeting of the Board of Directors shall be held at least quarterly, without notice and at such place and hour as may be fixed from time to time by the Board of Directors.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Sub Association, or by any two Directors.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Informal Action by Directors. Any action which may be taken at a meeting of the Board of Directors may be taken without a meeting if written consent to the action so taken is signed by all the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action is so taken.

Section 5. Chairman. A Chairman of the Board of Directors shall be elected by the Directors and shall preside over all Board meetings until the President of the Sub Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of President, a Chairman shall be elected by the Board of Directors to serve until a new President is elected.

Section 6. Participation in Meetings by Means of Conference Telephone. Members of the Board of Directors, or any committee of the Board, may participate in a meeting of the Board or of such committee by means of a conference telephone or similar communications device by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

ARTICLE VII **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Sub Association Common Properties and the personal conduct of the Members and their guests thereon, and to establish fines and penalties for the infraction thereof;

(b) suspend a Member's voting rights during any period in which he shall be in default in the payment of any assessment levied by the Sub Association pursuant to the provisions of the Declaration. Such rights may also be suspended after such notice and hearing as the Board, in its discretion, may determine, for a period not to exceed 60 days for infraction of the published rules and regulations of the Sub Association;

(c) exercise for the Sub Association all powers, duties and authority vested in or delegated to the Sub Association and not reserved to the Membership by other provisions of these By-Laws, the Articles of Incorporation, the Planned Community Act, or the Declaration;

(d) declare the office of a Member of the Board of Directors to be vacant in the event such director shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) employ a manager, independent contractors, or such other employees or agents as it may deem necessary and prescribe their duties. In the event a contract is

entered into with a management company to manage the affairs of the Sub Association, such contract must be terminable by the Board of Directors without cause or penalty on not more than ninety (90) days notice;

(f) employ attorneys to represent the Sub Association when necessary;

(g) to execute deeds or other legal documents to effectuate the transfer of Sub Association Common Areas as allowed under the Declaration; and

(h) appoint and remove at pleasure all officers, agents and employees of the Sub Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting when such statement is requested in writing by Members entitled to at least one-fourth (1/4) of the votes appurtenant to Class A and Class B;

(b) supervise all officers, agents and employees of the Sub Association and see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days before January 1 of each year;

(2) send written notice of each assessment to every Owner subject thereto at least fifteen (15) days before January 1 of each year; and

(3) as to any Lot for which an assessment is not paid within sixty (60) days after it becomes due, bring an action at law against the Owner personally obligated to pay the assessment or foreclose the lien against such Lot.

(d) issue, or cause an appropriate officer to the Sub Association to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of such certificates. If a certificate states that an assessment has been paid, such certificate shall be conclusive evidence of such payment as of the date of its issuance;

(e) procure and maintain adequate liability insurance covering the Sub Association in an amount not less than \$1,000,000.00, and adequate hazard insurance if available at reasonable cost, and adequate hazard insurance on the real and personal property owned by the Sub Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Sub Association Common Properties and all facilities erected thereon including private streets to be maintained;

(h) if necessary, establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements constructed on the Sub Association Common Properties;

(i) provide such notices to and obtain such consents from the Owners and holders of first deeds of trust on Lots within the Properties as is required by the Declaration or these By-Laws; and

(j) pay all ad valorem and public assessments levied against the real and personal property owned by the Sub Association.

ARTICLE VII **OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Officers. The officers of the Sub Association shall be a President and Vice President, who shall at all times be Members of the Board of Directors, a Secretary, and a Treasurer and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors. Officers shall include a President, Vice President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 3. Term. The officers of the Sub Association shall be elected annually by the Board and each shall hold office for the terms set forth in Article V unless he shall sooner resign, be removed, or be otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Sub Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board are carried out, shall sign all leases, promissory notes, mortgages, deeds and other written instruments, and, in the absence of the Treasurer, shall sign all checks.

(b) Vice Presidents. The Vice President shall act in the place instead of the President in the event of his death, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, keep the corporate seal of the Sub Association and affix it on all papers requiring a seal, serve notice of meetings of the Board and of the Members, keep appropriate current records showing the Members of the Sub Association and their addresses, and perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all funds of the Sub Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks of the Sub Association, shall keep proper books of account, shall cause an annual audit of the Sub Association books to be made by an independent public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members. Any or all of the duties may be delegated to a Management Company at the order of the Board of Directors.

ARTICLE IX COMMITTEES

The Board of Directors of the Sub Association may appoint a Nominating Committee, as provided in these By Laws, and shall appoint an Architectural Control

Committee, as provided in the Declaration. The Board of Directors may appoint such other committees as it deems appropriate in carrying out its purpose.

ARTICLE X
BOOKS AND RECORDS

The books, records and papers of the Sub Association shall at all time, during reasonable business hours, be subject to inspection by any Member or his authorized agent by appointment. The Declaration, the Articles of Incorporation and the By-Laws of the Sub Association shall be available for inspection at the principal office of the Sub Association, where authorized copies, as outlined in a resolution by the Board of Directors, may be purchased at a reasonable cost.

ARTICLE XI
ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Sub Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum or the maximum interest rate charge as may be established by the Board of Directors, but said rate shall not exceed the maximum rate allowed under the laws of North Carolina. The Sub Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot for which such assessment is due. Interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non use of the Common Area or abandonment of his unit.

ARTICLE XII
CORPORATE SEAL

The Sub Association shall have a seal in circular form having within its circumference the words: BALI PATIO HOMES SUB ASSOCIATION, INC.

ARTICLE XIII
AMENDMENTS AND CONFLICTS

Section 1. Amendments. These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present at a meeting duly called for such purpose, in person or by proxy, except that the Federal

Housing Administration or the Veterans Administration shall have the right to veto amendments while there is a Class B Membership.

Section 2. Conflicts. In case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV
FISCAL YEAR

The fiscal year of the Sub Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

CERTIFICATION

I, the undersigned, do hereby certify: THAT I am duly elected and acting Secretary of the BALI PATIO HOMES SUB ASSOCIATION, INC., Inc. a North Carolina non-profit corporation, and that the foregoing By-Laws constitute the original By-Laws of said BALI PATIO HOMES SUB ASSOCIATION, INC. as a duly adopted at a meeting of the Board of Directors thereof, held on the 28 day of NOVEMBER, 2007.

IN WITNESS WHEREOF, I hereunto subscribed my name and affixed the seal of said BALI PATIO HOMES SUB ASSOCIATION, INC. this 28 day of NOVEMBER, 2007.



Secretary

Printed Name: Richard E Sittman



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**Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.**



**Wake County Register of Deeds
Laura M. Riddick
Register of Deeds**

This Customer Group
_____ # of Time Stamps Needed

This Document
_____ 57 New Time Stamp
_____ # of Pages

ARTICLES OF INCORPORATION

OF

BALI PATIO HOMES SUB ASSOCIATION, INC. (A North Carolina Nonprofit Corporation)

Pursuant to and in compliance with the requirements of Chapter 55A of the North Carolina General Statutes, the undersigned, a natural person of full age, has this day executed and hereby submits these Articles of Incorporation for the purpose of forming a nonprofit corporation:

ARTICLE I NAME

The name of the corporation is **BALI PATIO HOMES SUB ASSOCIATION, INC.** (hereinafter the "Sub Association").

ARTICLE II REGISTERED OFFICE AND INITIAL AGENT

The registered/principal office of the Sub Association is located at 1201 Edwards Mill Road, Ste. 301, Raleigh, Wake County, North Carolina 27612. The location of the registered office may be changed by a majority vote of the Board of Directors. The name of the registered agent at the above address is Richard Sherman.

ARTICLE III MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Sub Association, including contract sellers, shall be a member of the Sub Association (hereinafter the "Lot Owner"). The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Lot Owner shall have more than one membership per lot. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Sub Association. Ownership of such lot shall be the sole qualification for membership. There shall be two (2) classes of membership as defined in the Declaration (as hereinafter defined) and By-Laws of the Sub Association.

ARTICLE IV
PURPOSE AND POWER OF THE SUB ASSOCIATION

The Sub Association does not contemplate a pecuniary gain or profit to the members thereof. The specific purposes for which the Sub Association is formed are to own and maintain the Sub Association common properties within that section of Stonewater Subdivision known as Bali Patio Homes at Stonewater ("Bali") and to promote the health, safety, and welfare of the residents within Bali and any additions thereto as may hereafter be brought within the jurisdiction of the Sub Association, and for these purposes to:

(a) exercise all of the powers and privileges and to perform all duties and obligations of the Sub Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions for Bali Patio Homes at Stonewater to be or recorded in the Wake and Chatham County Public Registries, as the same may from time to time be amended as provided therein, said Declaration and any amendments thereto (hereinafter individually and collectively referred to as "Declaration") being incorporated herein as if set forth at length;

(b) fix, levy, collect, and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration;

(c) pay all expenses incurred in connection with collection of the charges and assessments set forth in Subparagraph (b) above, and to pay all office and other expenses incident to the conduct of the business of the Sub Association, including, but not limited to, all licenses, taxes, insurance, or governmental charges levied or imposed against property owned by the Sub Association;

(d) acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Sub Association; provided, however, that all conveyances and transfers of Sub Association Common Areas must be done in accordance with all applicable laws and ordinances;

(e) borrow money and, with the assent of members entitled to at least four-fifths (4/5) of the votes appurtenant to the Class A and B (as defined in the Declaration and By-Laws), mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the property rights of the members as provided in the Declaration;

(f) dedicate, sell or transfer all or any part of the Sub Association Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the members, or as otherwise provided in the Declaration. No such dedication or transfer shall be effective unless an instrument has been signed by members entitled to at least four-fifths (4/5) of the votes

appurtenant to each Class A and B agreeing to such dedication, sale, or transfer. Notwithstanding anything herein to the contrary, except as provided in the Declaration, the Sub Association Common Properties shall be preserved for the perpetual benefit of the owners of the lots within the Properties and shall not be conveyed except to the Town of Cary or other appropriate governmental agencies or to another non-profit corporation for the aforementioned purposes; or as otherwise provided in the Declaration;

(g) participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any merger or consolidation shall have the consent of the members as provided in Paragraph (f) above and said merger is approved by the Town of Cary, if required;

(h) have and exercise any and all powers, rights, and privileges which a corporation organized under the Non-Profit Corporation Act of the State of North Carolina by law may now or hereinafter have or exercise; and

(i) have and exercise any and all powers, rights, and privileges under the North Carolina Planned Community Act, as contained in Chapter 47F of the General Statutes of North Carolina, as such provisions shall be amended and recodified from time to time.

ARTICLE V FINANCE

The Sub Association is a non-stock corporation and no part of the profits (if any) of the Sub Association shall inure to the pecuniary benefit of its members or to any other person. No part of the net earnings of the corporation shall inure to the benefit of its members, directors, officers, or other persons except that the organization shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the exempt purposes of the corporation.

ARTICLE VI BOARD OF DIRECTORS

The affairs of the Sub Association shall be managed by a Board of Directors, who need not be a member of the Sub Association. The Board of Directors shall consist of a minimum of three (3) persons and may be increased to five (5) persons pursuant to the By-Laws of the Sub Association. The persons, who are to act in the capacity of the Directors until the election of their successors or additional Directors are added, are:

- (1) Brad Whitehurst
- (2) Richard Sherman
- (3) Glenda Kinney

1201 Edwards Mill Road, Ste. 301
Raleigh, NC 27607

At the first meeting of the Sub Association after which transition to homeowner control has taken place, the number of directors may be increased to five. At that meeting, the members may elect two directors for terms of one year, two directors for terms of two years, and one director for a term of three years. At each annual meeting thereafter, the members shall elect the number of directors needed to fill the vacancy or vacancies created by the director or directors whose terms is/are expiring to serve a term of three (3) years. The number of directors may be changed by amendment of the By-Laws of the Sub Association.

ARTICLE VII **DISSOLUTION**

The Sub Association may be dissolved only upon the signed written consent of members entitled to at least four-fifths (4/5) of the votes appurtenant to the Class A and B Lots. Upon dissolution of the Sub Association, other than the incident to a merger or consolidation, the assets of the Sub Association shall be dedicated pursuant to the North Carolina Planned Community Act to be used for purposes similar to those for which the Sub Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed, and assigned to any non-profit corporation, association, trust, or other organization to be devoted to such similar purposes or to one or more organizations which are exempt as organizations described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

ARTICLE VIII **DURATION**

The period of existence of this corporation is perpetual.

ARTICLE IX **AMENDMENTS**

Amendments of these Articles shall require the assent of the members entitled to at least sixty-seven percent (67%) of the entire membership.

ARTICLE X **FHA/VA APPROVAL**

As long as there is Class B membership, the following actions require the prior approval of the Federal Housing Administration or the Veterans Administration: (1) annexation of additional properties, mergers and consolidations, dissolutions, mortgaging of Common Properties, dedication of or otherwise deeding of Common Properties to person other than the Sub Association, and (2) amendment of these Articles.

ARTICLE XI INDEMNIFICATION

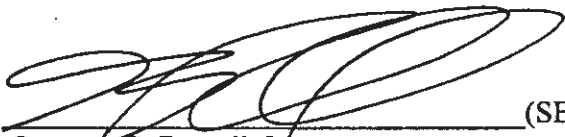
Every Director and every Officer of the Sub Association shall be indemnified by the Sub Association against all expenses and liabilities, including counsel fees, reasonably incurred by, or imposed upon, him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being, or having been, a Director or Officer of the Sub Association, whether or not he is a Director or Officer at the time such expenses are incurred, except in such cases for liabilities owed as a Lot Owner or wherein the Director or Officer is adjudged to have acted in bad faith or have been liable or guilty by reason of willful misconduct in the performance of his duties; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or Officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interests of the Sub Association. The foregoing right of indemnification shall be in addition to, and not exclusive of, all other rights of indemnification to which such Director or Officer maybe entitled by law or otherwise and, specifically, indemnification of Officers and Directors shall be available as 'set forth in G.S. §55A-8-50 et seq. The Board of Directors by Bylaw provision is authorized to establish further criteria for indemnification of Officers or Directors.

It is also intended that the liability of any Lot Owner arising out of any contracts made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportions of the total liability thereunder as his interest in the common areas bears to the interest of all of the Lot Owners. Every agreement made by the Board or by the manager on behalf of the Sub Association shall provide that the members of the Board of Directors, or the manager, as the case maybe, are acting only as agents for the Sub Association, and shall have no personal liability thereunder (except as Lot Owners).

Furthermore, notwithstanding the foregoing provision, in the event that Chapter 55A of the General Statutes of North Carolina or any other provision of the North Carolina General Statutes is amended or enacted to permit further limitation or elimination of the personal liability of the Sub Association's Officers or Directors, such liability shall be limited or eliminated to the fullest extent permitted by the applicable law.

This Article shall not affect a charter or bylaw provision or contract or resolution of the Sub Association indemnifying or agreeing to indemnify an Officer or Director against personal liability. Any repeal or modification of this Article shall not adversely affect any limitation hereunder on the personal liability of any Officer or Director with respect to acts or omissions occurring prior to such repeal or modification.

IN WITNESS WHEREOF, I, the undersigned incorporator, does hereby submit these Articles of Incorporation, declaring and certifying that the facts herein stated are true to the best of my knowledge and belief, and accordingly have hereunto subscribed my hand and seal, this 1st day of October, 2007.



(SEAL)

Grayson G. Russell, Incorporator
Russell Law Group, PLLC
2304 Wesvill Court, Suite 340
Raleigh, NC 27607
(919)-510-6801 - Phone
(919)-510-6802 - Fax

County of Wake

State of North Carolina

I certify that the following person(s) personally appeared before me this day, and; each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Grayson G Russell
Name(s) of principal(s)

Witness my hand and official seal, this the 1st day of October, 2007.

(Official Seal)



Official Signature of Notary

Sabrina Morris Stokes Notary Public
Notary's printed or typed name

My commission expires: 4/6/2010

