

**THE COVENANT
FOR
THE NEW NEIGHBORHOOD AROUND ST. ALBAN'S SQUARE
IN DAVIDSON, NORTH CAROLINA**

THIS COVENANT is made this 1st day of June, 2000, by BOONEcommunities/Davidson, LLC, a North Carolina limited liability company ("Founder").

PART ONE: INTRODUCTION TO THE COMMUNITY

BOONEcommunities/Davidson, LLC, as the developer of the neighborhood, has established this Covenant to provide a governance structure and a flexible system of standards and procedures for the overall development, administration, maintenance, and preservation of a new neighborhood around St. Alban's Square, a neighborhood within the Town of Davidson, North Carolina. Unlike traditional suburban subdivisions, which distance themselves from towns, this neighborhood strives for integration with the town and to be an integral part of the established community.

Article I Mission Statement

This Covenant establishes a comprehensive plan for a cohesive neighborhood within the Town of Davidson, North Carolina, a place where people can live, work, and gather as a community. Through planned development, architectural and maintenance standards, and appropriate land use requirements, the Founder, through the St. Alban's Square Neighborhood Association, Inc., and this Covenant, intends that the uniqueness and community that characterizes the Town of Davidson be reflected, enhanced, and carried forward within and provides the unique ability to live and work within one's own neighborhood. Going beyond the physical development and preservation of the land, the Association's mission includes fostering and perpetuating a sense of community life and spirit which permeates the Neighborhood and involves both its residents and the Town of Davidson.

The mission for the Neighborhood includes the following objectives:

a) Neighborhood Development: Establishing and developing a balanced neighborhood which accommodates a mix of residential, recreational, and limited non-residential uses.

b) Neighborhood Administration: Developing, governing, maintaining, and preserving the Neighborhood in accordance with a Neighborhood-Wide Standard designed to enhance the look and feel of the Neighborhood; providing efficient and cost-effective services; and adopting guidelines and rules for conduct which complement and contribute to the sense of community within the Neighborhood.

c) Self-Government: Achieving, through this Covenant and the other Governing Documents, and the good will and personal involvement of the owners and residents of the Neighborhood, a neighborhood governing body that strives for excellence in the performance of its duties and service to the Neighborhood.

d) Change: Recognizing that the evolution of a neighborhood is a dynamic process, that time and circumstance may alter the propriety of certain provisions of this Covenant, and that success requires an ability to adapt and respond to inevitable changes.

e) Individual Responsibility to the Neighborhood: Fostering participation in the Neighborhood's civic affairs, recognizing that a direct relationship exists between the quality of life in a community and the degree to which its owners and residents take part in the administration of their neighborhood's affairs.

f) Personal Enrichment: Providing a cultural environment and dynamic atmosphere in which owners, residents, and visitors of the Neighborhood are encouraged to realize their individual potential by participating in civic life.

Article II Creation of the Neighborhood

2.1. Purpose and Intent.

The Founder, as the owner of the real property described in Exhibit "A," intends by Recording this Covenant to establish a general plan of development for the Neighborhood as a neighborhood within the Town of Davidson including residential and limited business purposes. This Covenant provides flexible and reasonable procedures for the overall development, administration, maintenance, and preservation of the Neighborhood. An integral part of the development plan is the creation of St. Alban's Square Neighborhood Association, Inc., an association comprised of all owners of real property in the Neighborhood, to own, operate, and/or maintain various common open spaces and neighborhood improvements, to provide for services, activities, and programs for the benefit of the Neighborhood and the surrounding community, and to administer and enforce this Covenant and the other Governing Documents.

This document does not and is not intended to create a condominium under North Carolina law.

2.2. Binding Effect.

All property described in Exhibit "A," and any additional property which is made a part of the Neighborhood in the future by Recording one or more Supplemental Covenants, shall be owned, conveyed, and used subject to all of the provisions of this Covenant, which shall run with the title to such property. This Covenant shall be binding upon all Persons having any right, title, or interest in any portion of the Neighborhood, their heirs, successors, successors-in-title, and assigns.

This Covenant, as it may be amended, shall remain in effect and shall be enforceable by the Founder, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns, for a term of 20 years from the Recording of this Covenant. After such time, this Covenant shall be extended automatically for successive periods of 10 years each; provided, if an instrument signed by a majority of the then Owners is Recorded within the year preceding any extension, agreeing to terminate this Covenant, this Covenant shall terminate as of the date specified in such instrument. Notwithstanding this, if any provision of this Covenant would be unlawful, void, or voidable by reason of any North Carolina law restricting the period of time that covenants on land may be enforced, such provision shall expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England. Nothing in this Section shall be construed to permit termination of any easement created in this Covenant without the consent of the holder of such easement.

2.3. Governing Documents.

GOVERNING DOCUMENTS	
Covenant _____ (Recorded)	creates obligations and assessments which are binding upon the Association and all present and future unit owners
Articles of Incorporation _____ (filed with the North Carolina Secretary of State)	establishes the Association as a non-profit corporation under North Carolina law
By-Laws _____ (the Council of Stewards adopts)	governs the Association's internal affairs, such as voting rights, elections, meetings, officers, etc.
Supplemental Covenant _____ (Recorded)	adds property to the Neighborhood; <i>may</i> impose additional obligations or restrictions on such property
Architectural Guidelines _____ (the Founder adopts)	establish architectural standards and guidelines for improvements and modifications to Units, including structures, landscaping and other items on Units
Canons of Conduct _____ (initial set attached as Exhibit "C")	govern use of property, activities, and conduct within the Neighborhood
Council Resolutions _____ (Council adopts)	establish rules, policies, and procedures for internal governance and Association activities, regulate operation and use of Common Area

Nothing in this Section shall preclude any Supplemental Covenant or other Recorded covenants applicable to any portion of the Neighborhood from containing additional restrictions or provisions which are more restrictive than the provisions of this Covenant and, in such case, the more restrictive shall control. The Association may, but shall not be required to, enforce any such covenants, restrictions or other instruments applicable to any Peer Group.

The Governing Documents apply to all Owners and occupants of property within the Neighborhood, as well as to their respective tenants, guests and invitees. Any lease on a Unit shall provide that the tenant and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents.

Peer Groups within the Neighborhood may be subject to covenants, restrictions, and easements in addition to those contained in this Covenant. In such case, if there is a conflict between or among the Governing Documents and any such additional covenants or restrictions, of any such Peer Group, the Governing Documents shall control.

If any court should determine that any provision of this Covenant is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision.

Throughout the Governing Documents there are diagrams to illustrate the concepts discussed and aid in the reader's comprehension. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Governing Documents, the text shall control.

Article III Concepts and Definitions

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

"Architectural Guidelines": The architectural, design, and construction guidelines and review procedures adopted pursuant to Article V, as they may be amended.

"Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Covenant, any Supplemental Declaration or other applicable covenants, contracts, or agreements, including landscape and signage easements and areas within public street rights-of-way.

"Articles": St. Alban's Square Neighborhood Association, Inc.'s Articles of Incorporation, filed with the Secretary of State of North Carolina, as they may be amended.

"Association": St. Alban's Square Neighborhood Association, Inc., a North Carolina nonprofit corporation, its successors or assigns.

"Base Assessment": Assessments levied on all Units subject to assessment under Article IX to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 9.1.

"Builder": Any Person who purchases one or more Units for the purpose of constructing improvements for later sale to consumers, or who purchases one or more parcels of land within the Neighborhood for further development and/or resale in the ordinary course of its business.

"By-Laws": The By-Laws of St. Alban's Square Neighborhood Association, Inc., as they may be amended. A copy of the initial By-Laws is attached to this Covenant as Exhibit "D."

"Canons of Conduct": The initial restrictions and rules set forth in Exhibit "C," as they may be supplemented, modified, and repealed pursuant to Article IV.

"Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Council. The Class "B" Control Period shall terminate on the first to occur of the following:

- (a) when 75% of the total number of Units permitted by the Master Plan for the property described in Exhibits "A" and "B" have certificates of occupancy issued thereon and have been conveyed to Class "A" Members other than Builders;
- (b) December 31, 2007; or
- (c) when, in its discretion, the Class "B" Member so determines.

"Common Area": All real and personal property, including easements, which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners.

"Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Council may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless Members representing a majority of the total Class "A" vote of the Association approve. Payments due under leases of capital improvements such as street lights shall not be considered an initial development or original construction cost.

"Council of Stewards" or "Stewards": The body responsible for administration of the Association, selected as provided in the By-Laws and serving the same role as the board of directors under North Carolina corporate law.

"Founder": BOONEcommunities/Davidson, LLC, a North Carolina limited liability company, or any successor or assign who takes title to any portion of the property described in Exhibits "A" or "B" for the purpose of development and/or sale and who is designated as successor to the Founder in a Recorded instrument the immediately preceding the Founder executes.

"Limited Common Area": A portion of the Common Area primarily benefiting one or more, but less than all, Peer Groups or Owners, as more particularly described in Article XII.

"Master Plan": The land use plan for the development of the Neighborhood prepared by Dover, Kohl & Partners in collaboration with Turnbull Design Group, P.A. and approved by the Town of Davidson, as it may be amended, which includes all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B." Inclusion of property on the Master Plan shall not, under any circumstances, obligate the Founder to subject such property to this Covenant, nor shall the omission of property described in Exhibit "B" from the Master Plan bar its later submission to this Covenant as provided in Article X.

"Member": A Person who is a member of in the Association pursuant to Section 7.2.

"Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. The term "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

"Neighborhood" The real property described in Exhibit "A," together with such additional property as is subjected to this Covenant in accordance with Article X.

"Neighborhood-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing at the Neighborhood, or the minimum standards established pursuant to the Architectural Guidelines, Canons Of Conduct, and Council resolutions, whichever is a higher standard. Initially, the Founder shall establish such standard. the Neighborhood-Wide Standard may contain both objective and subjective elements and may evolve as development progresses and as the needs and desires within the Neighborhood change.

NEIGHBORHOOD-WIDE STANDARD		
<i>The higher of:</i>		
MINIMUM STANDARDS	OR	PREVAILING STANDARD
<i>Architectural Guidelines Canons of Conduct Resolutions of Council Example set by the Founder, Council</i>		

"Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Peer Group": A group of Units specifically designated as a Peer Group for purposes of sharing property and/or receiving benefits or services from the Association which are not

provided to all Units. A Peer Group may be comprised of more than one housing type and may include noncontiguous parcels of property. If the Association provides benefits or services to some Units within a particular Peer Group, but not all, then the Association may levy a Specific Assessment against just those Units for the cost of such benefits or services.

"Peer Group Assessments": Assessments levied against the Units in a particular Peer Group or Peer Groups to fund Peer Group Expenses, as described in Section 9.2.

"Peer Group Expenses": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Peer Group or Peer Groups, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Covenant or in any Supplemental Covenant(s) applicable to such Peer Group(s).

"Person": An individual, a corporation, a partnership, a trustee, or any other legal entity.

"Private Amenities": Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Neighborhood, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise. Nothing herein shall obligate the Founder to develop, construct, or provide any Private Amenity.

"Record," "Recording," or "Recorded": To file, the filing of, or filed in the public records a legal instrument in the Register of Deeds of Mecklenburg County, North Carolina, or such other place as may be designated as the official location for recording deeds, plats, and similar documents affecting title to real estate.

"Special Assessment": Assessments levied in accordance with Section 9.4.

"Specific Assessment": Assessments levied in accordance with Section 9.5.

"Supplemental Covenant": An instrument Recorded pursuant to Article X which subjects additional property to this Covenant, designates Peer Groups, and/or imposes additional restrictions and obligations on the land described in such instrument.

"Unit": A portion of the Neighborhood, whether improved or unimproved, which may be independently owned and conveyed and is intended for development, use, and occupancy as an attached or detached residence for a single family and/or limited business uses, such as office space or home office use. Portions of a Unit may be rented for residential or, in the case of "Live/Work Units" pursuant to Section 4.5(a), limited business activities. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the case of a structure containing multiple dwellings, each dwelling which may be separately sold shall be deemed to be a separate Unit.

PART TWO: CREATION AND MAINTENANCE OF NEIGHBORHOOD STANDARDS

The standards for use and conduct, maintenance, and architecture in the Neighborhood are what give the Neighborhood its identity and make it a place that people want to call "home." These standards make the Neighborhood a unique addition to the Town of Davidson. Each Owner and resident upholding such standards can take pride in the results of that common effort. This Covenant establishes procedures for adopting, modifying, applying and enforcing such standards while providing the flexibility for the neighborhood standards to evolve as the Neighborhood changes and grows over time.

Article IV Use and Conduct

4.1. Framework for Regulation.

The Governing Documents establish, as part of the general plan of development for the Neighborhood, a framework of affirmative and negative covenants, easements, and restrictions which govern the Neighborhood, including the Canons of Conduct. Within that framework, the Council and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology. Therefore, this Article establishes procedures for modifying and expanding the initial Canons Of Conduct set forth in Exhibit "C." This Article is not intended to apply to rules and regulations relating to use and operation of the Common Area, which the Council may adopt by resolution pursuant to its general powers.

4.2. Rule Making Authority.

(a) Subject to the terms of this Article and the Council's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Council may modify, cancel, limit, create exceptions to, or expand the Canons Of Conduct. To do so, the Council shall send written notice of such proposed action to all Owners at least five business days prior to the Council's meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Council meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (c) below, unless Members representing more than 50% of the total Class "A" votes in the Association and the Class "B" Member, if any, disapprove. The Council shall have no obligation to call a meeting of the Members to consider disapproval except upon receipt of a petition of the Members as required for special meetings in the By-Laws. If the Council receives such petition prior to the meeting described in this Section, the proposed action shall not become effective until the requested meeting is held, and then subject to the outcome of such meeting.

(b) Alternatively, Members representing more than 50% of the total Class "A" votes in the Association, at an Association meeting duly called for such purpose, may vote to adopt rules which modify, cancel, limit, create exceptions to, or expand the Canons Of Conduct then in effect. Such action shall require approval of the Class "B" Member, if any.

(c) Prior to any action taken under this Section becoming effective, the Council shall send a copy of the changes to the Canons Of Conduct to each Owner. The effective date shall be not less than 30 days following distribution to Owners.

(d) The Association shall provide, without cost, a copy of the effective Canons Of Conduct to any requesting Member or Mortgagee. The Association may charge a reasonable fee for additional copies.

(e) No action taken under this Article shall have the effect of modifying, repealing, or expanding the Architectural Guidelines or any provision of this Covenant other than the Canons Of Conduct. In the event of a conflict between the Architectural Guidelines and the Canons Of Conduct, the Architectural Guidelines shall control.

4.3. Owners' Acknowledgment and Notice to Purchasers.

All Owners are given notice that use of their Units and the Common Area is limited by the Canons Of Conduct. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by the Canons Of Conduct and that the Canons may change from time to time. In addition, each Peer Group may be subject to additional Canons of Conduct to provide for its individual needs within the Neighborhood. All purchasers of Units are on notice that the Association may have adopted changes and that such changes may not be set forth in a Recorded instrument.

4.4. Protection of Owners and Others.

Except as may be set forth in this Covenant (either initially or by amendment) or in the initial Canons Of Conduct set forth in Exhibit "C," all Canons Of Conduct and Association rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly; however, the Canons Of Conduct may vary by Peer Group.

(b) Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations inside structures on their Units shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling.

No rules shall regulate the content of political signs; however, rules may regulate the time, place, and manner of posting such signs (including design criteria).

(c) Household Composition. The freedom of Owners to determine the composition of their households shall not be abridged, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities within the Unit and the fair use of the Common Area.

(d) Activities Within Dwellings. Activities carried on within the confines of dwellings shall not be interfered with, except that the Association may prohibit activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of others, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(e) Alienation. No action shall prohibit leasing or transfer of any Unit, or require consent of the Association or Council for leasing or transfer of any Unit; provided, the Association or the Council may require a minimum lease term of up to six months. The Association may require that Owners use lease forms approved by the Association.

(f) Abridging Existing Rights. An Owner shall not be required to dispose of personal property that was in or on a Unit prior to the adoption of any Canon or rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Unit, and shall not apply to subsequent Owners who take title to the Unit after adoption of the rule.

(g) Reasonable Rights to Develop. The Association or Council shall not unreasonably impede the Founder's right to develop the Neighborhood.

The limitations in subsections (a) through (f) of this Section shall only limit rulemaking authority exercised under Section 4.2; they shall not apply to amendments to this Covenant adopted in accordance with Article XVIII.

4.5. Restrictions on Use.

The restrictions set forth in this Section may be amended only in accordance with Article XIX.

(a) Residential and Limited Business Uses. Units shall be used primarily for residential and related purposes, including home offices. However, in the case of a Unit designated on a Recorded plat or a Supplemental Covenant as a "Live/Work Unit" limited business activities may be conducted in, on, or from such Unit. No business shall be conducted in, on, or from any Unit, other than a "Live/Work Unit" if the business activity:

(i) is apparent or detectable by sight, sound, or smell from outside of a structure on a Unit;

(ii) does not comply with applicable zoning requirements;

(iii) involves regular visitation of the Unit by clients, customers, suppliers, or other business invitees, or door-to-door solicitation within the Neighborhood; and

(iv) is not consistent with the residential character of the Neighborhood and constitutes a nuisance, or a hazardous or offensive use, or threaten the security or safety of others within the Neighborhood, as determined in the Council's sole discretion.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (A) such activity is engaged in full or part time, (B) such activity is intended to or does generate a profit, or (C) a license is required.

This Section shall not apply to restrict the Founder's activities, nor shall it restrict the activities of persons the Founder approves with respect to the development and sale of property in the Neighborhood. This Section shall not apply to Association activities related to the provision of services or to operating and maintaining St. Albans's Square including recreational and other amenities.

Leasing a structure is not a "business" within the meaning of this sub section.

(b) Leasing. "Leasing," for purposes of this Covenant, is defined as regular, exclusive occupancy and use of a Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. The Unit may be leased in portions and nothing shall prevent the rental of only a portion of any Unit. The Council may require a minimum lease term, which requirements may vary from Peer Group to Peer Group. Notice of any lease, together with such additional information as may be required by the Council, shall be given to the Council by the Unit Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Covenant, By-Laws, and the Canons Of Conduct.

(c) Occupancy. In no case shall occupancy of a Unit exceed two persons per bedroom. For purposes of this Section, "occupancy" shall be defined as staying overnight in the Unit more than 30 days in any six month period.

Article V Architecture and Landscaping

5.1. General.

No structure or thing shall be placed, erected, or installed upon any Unit and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations of existing improvements, or planting or removal of landscaping) shall take place within the Neighborhood, except in compliance with this Article and the Architectural Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint, or redecorate the interior of his or her Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure shall be subject to approval.

All dwellings constructed on any portion of the Neighborhood shall be designed by and built in accordance with the plans and specifications of a licensed architect unless the Founder or its designee otherwise approves in its sole discretion.

This Article shall not apply to the Founder's activities, nor to activities of the Association during the Class "B" Control Period.

5.2. Architectural Review.

(a) By the Founder. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Neighborhood, acknowledges that, as the developer of the Neighborhood and as an owner of portions of the Neighborhood as well as other real estate within the vicinity of the Neighborhood, the Founder has a substantial interest in ensuring that the improvements within the Neighborhood enhance the Founder's reputation as a community developer and do not impair the Founder's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on such Owner's Unit unless and until the Founder or its designee has given its prior written approval for such activity, which approval may be granted or withheld in the Founder's or its designee's sole discretion.

In reviewing and acting upon any request for approval, the Founder or its designee shall be acting solely in the Founder's interest and shall owe no duty to any other Person. The Founder's rights reserved under this Article including the right to amend the Architectural Guidelines, shall continue so long as the Founder owns any portion of the Neighborhood or any real property adjacent to the Neighborhood, unless earlier terminated in a Recorded instrument executed by the Founder.

The Founder may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

The Founder may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to (i) an architectural review committee appointed by the Council of Stewards ("ARC"), or (ii) a committee comprised of architects, engineers, or other persons who may or may not be Members of the Association. Any such delegation shall be in writing and shall specify the scope of responsibilities delegated. It shall be subject to (i) the Founder's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (ii) the Founder's right to veto any decision which the Founder determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as the Founder has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as the Founder specifically delegates to it.

(b) Architectural Review Committee. Upon delegation by the Founder or upon expiration or termination of the Founder's rights under this Article, the Association, acting through the ARC, shall assume jurisdiction over architectural matters. The ARC, when appointed, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Council's discretion. The members of the ARC need not be

Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, who may be compensated in such manner and amount, if any, as the Council may establish.

Unless and until such time as the Founder delegates all or a portion of its reserved rights to the ARC or the Founder's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

(c) Fees; Assistance. For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer." The Reviewer may establish and charge reasonable fees for review of applications and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. The Founder and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Council may include the compensation of such persons in the Association's annual operating budget.

5.3. Guidelines and Procedures.

(a) Architectural Guidelines. The Founder may prepare the initial Architectural Guidelines, which may contain general provisions applicable to all of the Neighborhood as well as specific provisions which vary from Peer Group to Peer Group. The Architectural Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications. The Architectural Guidelines are not the exclusive basis for the Reviewer's decisions and compliance with the Architectural Guidelines does not guarantee approval of any application.

Upon termination or delegation of the Founder's right to amend as provided in Section 5.2, the Council may amend the Architectural Guidelines in accordance with the procedures set forth in Article IV for changing the Canons of Conduct.

Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

The Reviewer shall make the Architectural Guidelines available to Owners and Builders who seek to engage in development or construction within the Neighborhood. In the Founder's discretion, such Architectural Guidelines may be Recorded, in which event the Recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

(b) Procedures. Except as otherwise specifically provided in the Architectural Guidelines, no activities shall commence on any portion of the Neighborhood until an application for approval has been submitted to and approved by the Reviewer. Such application

shall include, as applicable and the Reviewer requires, plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction. The Architectural Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall not be subject to review so long as made in good faith and in accordance with the procedures set forth herein.

The Reviewer shall make a determination on each application within 30 days after receipt of a completed application and all required information. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

Until expiration of the Founder's rights under this Article, the ARC shall notify the Founder in writing within three business days after the ARC has approved any application within the scope of matters delegated to the ARC by the Founder. The notice shall be accompanied by a copy of the application and any additional information which the Founder may require. The Founder shall have 10 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARC.

The Reviewer shall notify the applicant in writing of its final determination on any application within five days thereafter or, with respect to any ARC determination subject to the Founder's veto right, within five days after the earlier of: (i) receipt of notice of the Founder's veto or waiver thereof; or (ii) expiration of the 10-day period for exercise of the Founder's veto. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Reviewer fails to respond in a timely manner, approval shall be deemed given, subject to the Founder's right to veto pursuant to this Section. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Architectural Guidelines unless a written variance has been granted pursuant to Section 5.5. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the applicant.

If construction does not commence on a project for which Plans have been approved within one year after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be

completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, the Founder or any aggrieved Owner.

The Reviewer may, by resolution, exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

5.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved. The reviewer may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

5.5. Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Covenant; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

5.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Neighborhood; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be based solely on aesthetic considerations. The Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, for ensuring compliance with building codes and other governmental requirements, or for ensuring that all dwellings are of comparable quality, value, or size, similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

The Founder, the Association, the Council, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work; any

defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents, whether or not the Founder has approved or featured such contractor as a builder in the Neighborhood; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Association shall defend and indemnify the Council, the ARC, and the members of each as provided in Section 8.6.

5.7. Certificate of Compliance.

Any Owner may request that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Architectural Guidelines. The Association shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

Article VI Maintenance and Repair

6.1. Maintenance of Units.

Each Owner shall maintain his or her Unit, and all landscaping and improvements comprising the Unit in a manner consistent with Section 8.3, the Governing Documents, the Neighborhood-Wide Standard, and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Peer Group pursuant to this Covenant, any Supplemental Covenant, or other declaration of covenants applicable to such Unit.

6.2. Maintenance of Peer Group Property.

Upon resolution of the Council, Owners within each Peer Group shall be responsible for paying, through Peer Group Assessments, the costs of operating, maintaining, and insuring certain portions of the Area of Common Responsibility within or adjacent to such Peer Group. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way, and greenspace between the Peer Group and adjacent public roads, private streets within the Peer Group, and lakes or ponds within the Peer Group, regardless of ownership and regardless of the fact that the Association performs such maintenance; provided, all Peer Groups which are similarly situated shall be treated the same.

The Association may assume maintenance responsibility for property within any Peer Group, in addition to that designated by any Supplemental Covenant, either by agreement or because, in the opinion of the Council, the level and quality of service then being provided is not consistent with the Neighborhood-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed as a Peer Group Assessment only against the Units within the Peer Group to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

6.3. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Neighborhood-Wide Standard.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless the Association carries such insurance (which it may, but is not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Unit, the Owner shall promptly repair or reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article V. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Neighborhood-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

Additional Recorded covenants applicable to any Peer Group may establish requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within the Peer Group and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

PART THREE: NEIGHBORHOOD GOVERNANCE AND ADMINISTRATION

This Covenant establishes the Association as mechanism by which each Owner is able to participate in the governance and administration of the Neighborhood. While many powers and responsibilities are vested in the Association's Council of Stewards in order to facilitate day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's membership -- the Unit Owners.

Article VII The Association and its Members

7.1. Function of Association.

The Association is the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility. The Association also is the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and North Carolina law.

7.2. Membership.

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Council regulation and the restrictions on voting set forth in Section 7.3(c) and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

7.3. Voting.

The Association shall have two classes of membership, Class "A" and Class "B".

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 7.2, except that there shall be only one vote per Unit. No vote shall be exercised for any property which is exempt from assessment under Section 9.9. All Class "A" votes shall be cast as provided in Section 7.3(c) below.

(b) Class "B". The sole Class "B" Member shall be the Founder. The Class "B" Member may appoint a majority of the members of the Council of Stewards during the Class "B" Control Period, as specified in the By-Laws. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Council and committees as provided in the By-Laws.

The Class "B" membership shall terminate upon the earlier of:

- (i) two years after expiration of the Class "B" Control Period; or
- (ii) when, in its discretion, the Founder so determines and declares in a Recorded instrument.

Upon termination of the Class "B" membership, the Founder shall be a Class "A" Member entitled to one Class "A" vote for each Unit which it owns.

(c) Exercise of Voting Rights. There shall be only one vote per Unit. In any situation where there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

7.4. Peer Groups.

The Owners of Units within any Peer Group may request that the Association provide a higher level of service than the Association generally provides to all Peer Groups or that the Association provide special services for the benefit of Units in such Peer Groups in addition to the services provided to such Unit in the past. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Units within the Peer Group, the Association shall provide the requested services.

The cost of such services, which may include a reasonable administrative charge in such amount as the Council deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit to all Peer Groups receiving the same service), shall be assessed against the Units within such Peer Group as a Peer Group Assessment.

Exhibit "A" to this Covenant, and each Supplemental Covenant may assign property to a specific Peer Group (by name or other identifying designation), which Peer Group may be then existing or newly created. So long as it has the right to subject additional property to this Covenant pursuant to Section 10.1, the Founder may unilaterally amend this Covenant or any Supplemental Covenant to redesignate Peer Group boundaries. However, two or more existing Peer Groups shall not be combined without the consent of Owners of a majority of the Units in the affected Peer Groups.

Article VIII Association Powers and Responsibilities

8.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Council, may acquire, hold, lease (as lessor or lessee), operate, and dispose of tangible and intangible personal property and real property, subject to the provisions of Sections 16.8 and 19.4. The Association may enter into leases, licenses, or operating agreements for portions of the Common Area, for such consideration or no consideration as the Council deem appropriate, to permit use of such portions of the Common Area by community organizations and by others, whether nonprofit or for profit, for the provision of goods or services for the general benefit or convenience of Owners, occupants, and residents of the Neighborhood. However, except as provided in Section 8.1(d), the Association may not convey or encumber any portion of the Common Area unless Members representing at least 80% of the total Class "A" votes and the Class "B" member, if any, consent in writing to such action, pursuant to N.C.G.S. §47F-3-112.

(b) The Founder and its designees may convey to the Association, and the Association shall accept, personal property and fee title, leasehold, or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B."

(c) The Association shall be responsible for management, operation, and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument

transferring such property to the Association. The Council may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.

(d) Pursuant to the Town of Davidson Board of Commissioners' resolutions adopted August 11, 1998 areas designated in the Master Plan as open space shall be offered to the Town of Davidson, North Carolina for public use and ownership after being developed. If the Town of Davidson accepts such offer, it shall maintain such open space to the specifications required by the Neighborhood-Wide Standard.

8.2. Maintenance of Area of Common Responsibility.

The Association shall maintain, in accordance with the Neighborhood-Wide Standard, the Area of Common Responsibility, which shall include, but need not be limited to:

(a) all portions of and structures, including but not limited to gazebos, kiosks, entry features, water features, landscaping, parks, trails, open spaces, wetlands, natural preserve areas, conservation areas, sensitive areas, and buffers, situated on the Common Area;

(b) improvements within the Landscape, Signage, Fence, and Irrigation Easements, as shown on Recorded plats of the Neighborhood and further described in Section 12.7;

(c) such portions of any additional property included within the Area of Common Responsibility, including the public street right-of-way, as may be dictated by this Covenant, any Supplemental Covenant, or any contract or agreement for maintenance thereof entered into by the Association;

(d) all ponds, streams and/or wetlands located within the Neighborhood which serve as part of the stormwater drainage system for the Neighborhood, including improvements and equipment installed therein or used in connection therewith; and

(e) any property and facilities the Founder owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities shall be identified by written notice from the Founder to the Association and will remain part of the Area of Common Responsibility maintained by the Association until such time as the Founder revokes such privilege of use and enjoyment by written notice to the Association.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the Council's sole discretion, to perform required maintenance or repairs, unless Members representing 75% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced except with the Founder's prior written approval as long as the Founder owns any property described in Exhibits "A" or "B" of this Covenant.

The costs associated with maintenance, repair, and replacement of the Area of Common Responsibility shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Covenant, other Recorded covenants, or agreements with the owner(s) thereof.

8.3. Maintenance Levels for Different Types of Units.

The Association may be responsible for performing maintenance for some Units which may vary by product type and Peer Group designation. The initial maintenance levels and designations are attached as Exhibit "E" hereto. Peer Groups designated in Supplemental Declarations shall reference one of the maintenance levels designated in Exhibit "E."

So long as the Class "B" Control Period exists, the Founder may modify, alter, and amend the maintenance levels for Peer Groups, subject to compliance with the Neighborhood-Wide Standard. Upon the expiration of the Class "B" Control Period, the Council of Stewards shall have the right to modify, alter, and amend the maintenance levels for any Peer Group, subject to the Neighborhood-Wide Standard.

8.4. Insurance.

(a) Required Coverages. The Association, acting through its Council or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional

coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Council's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Council, in the exercise of its business judgment, determine advisable.

In addition, the Association shall, if so specified in a Supplemental Covenant applicable to any Peer Group, obtain and maintain property insurance on the insurable improvements within such Peer Group which insurance shall comply with the requirements of Section 8.3(a)(i). Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses, except that premiums for property insurance on Units within a Peer Group shall be a Peer Group Expense unless the Council reasonably determine that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Davidson area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 8.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Peer Group Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Council reasonably determine, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Council may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Council shall:

(i) be written with a company authorized to do business in North Carolina which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Council deem appropriate;

(ii) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Peer Group shall be for the benefit of the Owners within the Peer Group and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

(vii) provide a waiver of subrogation under the policy against any Owner or household member of a Owner;

(viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Council shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Council, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Council exclusive authority to adjust losses; provided, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Council or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Members representing at least 80% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Neighborhood-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Units within the insured Peer Group, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Council may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 8.3(a).

8.4. Compliance and Enforcement.

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Council may impose sanctions for violation of the Governing Documents after notice and a

hearing in accordance with the procedures set forth in the By-Laws. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; however, if the fine is not paid by the violator within the time period set by the Council, the Owner shall pay the fine upon notice from the Council);

(ii) suspending an Owner's right to vote;

(iii) suspending any Person's right to use any recreational facilities within the Common Area; however, nothing herein shall authorize the Council to limit ingress or egress to or from a Unit;

(iv) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

(v) exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(vi) requiring an Owner, at his or her own expense, to remove any structure or improvement on such Owner's Unit in violation of the Governing Documents and to restore the Unit to its previous condition and, upon failure of the Owner to do so, the Council or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(vii) without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article V and the Architectural Guidelines from continuing or performing any further activities in the Neighborhood; and

(viii) levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents.

In addition, the Council may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the notice and hearing procedures set forth in the By-Laws:

(i) exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); or

(ii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. Except in an emergency situation, the Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

Moreover, if an Owner is legally responsible for damage inflicted on any Common Area, the Association may direct such Owner to repair such damage or the Association may make the repair and recover damages from the responsible Owner. If the damages are less than or equal to the jurisdictional amount established for small claims under N.C.G.S. 7A-210, the Owner may request a hearing before the Council or an adjudicatory panel the Council appoints pursuant to N.C.G.S. 47F-3-107.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

(b) The decision to pursue enforcement action in any particular case shall be left to the Council's discretion, except that the Council shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Council may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action; or

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce applicable town and county ordinances, if applicable, and permit Mecklenburg County or the Town of Davidson to enforce ordinances within the Neighborhood for the benefit of the Association and its Members.

8.5. Implied Rights; Council Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Council without a vote of the membership.

The Council may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its members.

In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, Council members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in Section 8.6.

8.6. Indemnification of Officers, Directors, and Others.

The Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Council of Stewards) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under the Articles of Incorporation and North Carolina law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association).

The Association shall indemnify and forever hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

8.7. Safety and Security.

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Neighborhood. The Association may, but shall not be obligated to, maintain or support certain activities within the Neighborhood designed to enhance the level of safety or security which each person provides for himself and his property. Neither the Association nor the Founder shall in any way be considered insurers or guarantors of safety or security within the Neighborhood, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Neighborhood, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Council and committees, and the Founder are not insurers or guarantors of security or safety and that each Person within the Neighborhood assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

8.8. Provision of Services.

The Association may provide, or provide for, services and facilities for the Owners and their Units, and shall be authorized to enter into and terminate contracts or agreements with other entities, including the Founder, to provide such services and facilities. The Council may charge use or service fees for any such services and facilities provided at the option of an Owner, or may include the costs thereof in the Association's budget as a Common Expense and assess it as part of the Base Assessment if provided to all Units. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities.

Nothing in this Section shall be construed as a representation by the Founder or the Association as to what, if any, services shall be provided. In addition, the Council shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Governing Documents. Non-use of services provided to all Owners or Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

8.9 Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighboring property to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

8.10 Facilities and Services Open to the Public. Certain facilities and areas within the Neighborhood may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: greenbelts, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. The Founder may designate such facilities and areas as open to the public at the time the Founder makes such facilities and areas a part of the Area of Common Responsibility or the Council may so designate at any time thereafter.

8.9. Relationship with Tax-Exempt Organizations.

Either the Founder or the Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over portions of the Common Area to non-profit, tax-exempt organizations, the operation of which confers some benefit upon the Neighborhood, the Association, the Members, or residents. While such organization(s) may perform a variety of services and functions, it is anticipated that such activities will focus on programs benefiting the Davidson area as a whole.

If established by the Founder or the Association for activities within the Master Plan, the Association shall be responsible for funding the minimum organization expenses of maintaining such entity and may contribute money, real or personal property, or services to such entity. Such expenses and any such contributions shall be a Common Expense. For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("Code"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

Article IX Association Finances

9.1. Budgeting and Allocating Common Expenses.

At least 60 days before the beginning of each fiscal year, the Council shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 9.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in Section 9.6.

The Association is authorized to levy Base Assessments equally against all Units subject to assessment under Section 9.6 to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Council may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

The Founder may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Founder under

Section 9.7(b)), which may be either a contribution, an advance against future assessments due from the Founder, or a loan, in the Founder's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate the Founder to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Founder.

The budget is subject to ratification by the Owners at a meeting. The Council shall send a summary of the proposed budget and notice of the meeting to consider ratification of the budget not less than 10 or more than 60 day prior to the date of meeting. A quorum need not be present at the meeting and the notice to Owners shall include a statement that the budget may be ratified without a quorum being present. The budget shall be ratified unless, at such meeting, the Members representing a majority of the Class "A" votes disapprove the budget.

If any proposed budget is disapproved or the Council fail for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Council may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

9.2. Budgeting and Allocating Peer Group Expenses.

At least 60 days before the beginning of each fiscal year, the Council shall prepare a separate budget covering the estimated Peer Group Expenses for each Peer Group on whose behalf Peer Group Expenses are expected to be incurred during the coming year. Each such budget shall include any costs for additional services or a higher level of services which the Owners in such Peer Group have approved pursuant to Section 7.4(a) and any contribution to be made to a reserve fund pursuant to Section 9.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount required to be generated through the levy of Peer Group and Special Assessments against the Units in such Peer Group.

The Association is hereby authorized to levy Peer Group Assessments equally against all Units in the Peer Group which are subject to assessment under Section 9.6 to fund Peer Group Expenses; provided, if so specified in the applicable Supplemental Covenant or if so directed by petition signed by a majority of the Owners within the Peer Group, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units in proportion to the benefit received.

The budget is subject to ratification by the Owners at a meeting. The Council shall send a summary of the proposed budget and notice of the meeting to consider ratification of the budget not less than 10 nor more than 60 days prior to the date of the meeting. A quorum need not be present at the meeting and notice to the Owners shall include a statement that the budget

may be ratified without a quorum being present. The budget shall be ratified unless, at such meeting, the Members representing a majority of Class "A" votes disapprove the budget.

If the proposed budget for any Peer Group is disapproved or if the Council fail for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

The Council may revise the budget for any Peer Group and the amount of any Peer Group Assessment from time to time during the year, subject to the notice requirements and the right of the Owners of Units in the affected Peer Group to disapprove the revised budget as set forth above.

All amounts collected by the Association as Peer Group Assessments shall be held in trust for and expended solely for the benefit of the Peer Group for which they were collected and shall be accounted for separately from the Association's general funds.

9.3. Budgeting for Reserves.

The Council shall prepare and review at least annually a reserve budget for the Area of Common Responsibility and for each Peer Group for which the Association maintains capital items as a Peer Group Expense. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Council shall include in the Common Expense budget adopted pursuant to Section 9.1 or the Peer Group Expense budgets adopted pursuant to Section 9.2, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

9.4. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Peer Group if such Special Assessment is for Peer Group Expenses. Except as otherwise specifically provided in this Covenant, any Special Assessment shall require the affirmative vote or written consent of Owners representing more than 50% of the total votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Council, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

9.5. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 8.9). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Council shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b).

The Association may also levy a Specific Assessment against the Units within any Peer Group to reimburse the Association for costs incurred in bringing the Peer Group into compliance with the provisions of the Governing Documents, provided the Council give prior written notice to the Owners of Units in the Peer Group and an opportunity for such Owners to be heard before levying any such assessment.

9.6. Authority to Assess Owners; Time of Payment.

The Founder hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is made subject to this Covenant, or (b) the month in which the Council first determine a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Peer Group Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Council may establish. The Council may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Council so elect, assessments may be paid in two or more installments. Unless the Council otherwise provides, the Base Assessment and any Peer Group Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Council may require the outstanding balance on all assessments to be paid in full immediately.

9.7. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Neighborhood, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Council may establish, subject to the limitations of North Carolina law), late charges as determined by Council resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each

Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Council to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Peer Group Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Council to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate. Such certificate shall be furnished within 10 business days after receipt of the request.

(b) The Founder's Option to Fund Budget Deficits. During the Class "B" Control Period, the Founder may satisfy its obligation for assessments on Units which it owns either by paying such assessments in the same manner as any other Owner or by paying the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. Unless the Founder otherwise notifies the Council in writing at least 60 days before the beginning of each fiscal year, the Founder shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year.

Regardless of the Founder's election, the Founder's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. After termination of the Class "B" Control Period, the Founder shall pay assessments on its unsold Units in the same manner as any other Owner.

9.8. Lien for Assessments.

The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of North Carolina law), and costs of collection (including attorneys fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any Recorded first Mortgage (meaning any Recorded

Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure. A claim of lien shall set forth the name and address of the Association, the name of the Owner of the Unit at the time the lien is filed, a description of the Unit, and the amount of the lien claimed.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 9.6, including such acquirer, its successors and assigns.

9.9. Exempt Property.

The following property shall be exempt from payment of Base Assessments, Peer Group Assessments, and Special Assessments:

- (a) All Common Area and such portions of the property owned by the Founder as are included in the Area of Common Responsibility; and
- (b) Any property dedicated to and accepted by any governmental authority or public utility.

In addition, the Founder and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Covenant for purposes listed in Section 501(c).

9.10. Capitalization of Association.

Upon acquisition of record title to a Unit by the first Owner thereof other than the Founder or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the

Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Covenant and the By-Laws.

9.11. Neighborhood Enhancement Fee.

(a) Authority. The Council shall have the authority, on behalf of the Association, to establish and collect a transfer fee from the transferring Owner upon each transfer of title to a Unit in the Neighborhood, which fee shall be payable to the Association at the closing of the transfer and shall be secured by the Association's lien for assessments under Section 9.8. Owner shall notify the Association's Secretary of a pending title transfer at least seven days prior to the transfer. Such notice shall include the name of the buyer, the date of title transfer, and other information as may be required by the Council.

(b) Fee Limit. The Council shall have the sole discretion to determine the amount and method of determining any such transfer fee. The Council are authorized, but not required, to determine the transfer fee based upon a sliding scale which varies in accordance with the "gross selling price" of the property or any other factor as determined by the Council. However, in no event shall any such transfer fee exceed five one hundredths of one percent (.05%) of the gross selling price of the property. For the purpose of determining the amount of the transfer fee, the gross selling price shall be the total cost to the purchaser of the property, excluding taxes and title transfer fees as shown by the amount of tax imposed by Mecklenburg County.

(c) Purpose. All transfer fees which the Association collects shall be deposited into a segregated account used for such purposes as the Council deem beneficial to the general good and welfare of the Neighborhood which the Governing Documents do not otherwise require to be addressed by the Association's general operating budget. By way of example and not limitation, such transfer fees might be used to assist the Association or a tax-exempt entity the Founder or the Association creates in funding:

(i) preservation and maintenance of natural areas, wildlife preserves, or similar conservation areas, and sponsorship of educational programs and activities which contribute to the overall understanding, appreciation and preservation of the natural environment at the Neighborhood;

(ii) programs and activities which serve to promote a sense of community within the Neighborhood, such as recreational leagues, cultural programs, educational programs, festivals and holiday celebrations and activities, a neighborhood computer network, and recycling programs; and

(iii) social services, community outreach programs, and other charitable causes.

(d) Exempt Transfers. Notwithstanding the above, no transfer fee shall be levied upon transfer of title to a Unit:

(i) by or to the Founder;

- (ii) by a Builder who held title solely for purposes of development and resale;
- (iii) by a co-owner to any Person who was a co-owner immediately prior to such transfer;
- (iv) to the Owner's estate, surviving spouse or child upon the death of the Owner;
- (v) to an entity wholly owned by the grantor; provided, upon any subsequent transfer of an ownership interest in such entity, the transfer fee shall become due;
- (vi) to an institutional lender pursuant to a Mortgage or upon foreclosure of a Mortgage.

PART FOUR: NEIGHBORHOOD DEVELOPMENT

The Covenant reserves various rights to the founder in order to facilitate the smooth and orderly development of the Neighborhood and to accommodate changes in the master plan which inevitably occur as the neighborhood grows and matures.

Article X Expansion of the Community

10.1. Expansion by the Founder.

The Founder may from time to time subject to the provisions of this Covenant all or any portion of the property described in Exhibit "B" by Recording a Supplemental Covenant describing the additional property to be subjected. A Supplemental Covenant Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than the Founder.

The Founder's right to expand the Neighborhood pursuant to this Section shall expire when all property described in Exhibit "B" has been subjected to this Covenant or seven years after this Covenant is Recorded, whichever is earlier. Until then, the Founder may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibits "A" or "B." Any such transfer shall be memorialized in a written, Recorded instrument executed by the Founder.

Nothing in this Covenant shall be construed to require the Founder or any successor to subject additional property to this Covenant or to develop any of the property described in Exhibit "B" in any manner whatsoever.

10.2. Expansion by the Association.

The Association may also subject additional property to the provisions of this Covenant by Recording a Supplemental Covenant describing the additional property. Any such Supplemental Covenant shall require the affirmative vote of Members representing more than 50% of the Class "A" votes of the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. In addition, so long as the Founder owns property subject to this Covenant or which may become subject to this Covenant in accordance with Section 10.1, the Founder's consent shall be necessary. The Supplemental Covenant shall be signed by the President and Secretary of the Association, by the owner of the property and by the Founder, if the Founder's consent is necessary.

10.3. Additional Covenants and Easements.

The Founder may subject any portion of the Neighborhood to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Peer Group Assessments. Such additional covenants and easements may be set forth either in a Supplemental Covenant subjecting such property to this Covenant or in a separate Supplemental Covenant referencing property previously subjected to this Covenant. If the property is owned by someone other than the Founder, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Covenant. Any such Supplemental Covenant may supplement, create exceptions to, or otherwise modify the terms of this Covenant as it applies to the subject property in order to reflect the different character and intended use of such property.

10.4. Effect of Filing Supplemental Covenant.

A Supplemental Covenant shall be effective upon Recording unless otherwise specified in such Supplemental Covenant. On the effective date of the Supplemental Covenant, any additional property subjected to this Covenant shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Covenant.

Article XI Additional Rights Reserved to the Founder

11.1. Withdrawal of Property.

The Founder reserves the right to amend this Covenant, so long as it has a right to annex additional property pursuant to Section 10.1, for the purpose of removing any portion of the Neighborhood which has not yet been improved with structures from the coverage of this Covenant, provided such withdrawal does not reduce the total number of Units then subject to the Covenant by more than 10 percent. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Founder. If the property is Common Area, the Association shall consent to such withdrawal.

11.2. Marketing and Sales Activities.

The Founder and Builders authorized by the Founder may construct and maintain upon portions of the Common Area or Units which they own such facilities and activities as, in the Founder's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. The Founder and authorized Builders shall have easements for access to and use of such facilities at no charge. Builders' rights under this section are subject to Founder's consent.

11.3. Right to Develop.

The Founder and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in the Neighborhood acknowledges that the Neighborhood is a master planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge or otherwise object to (a) changes in uses or density of property outside the Peer Group in which such Person holds an interest, or (b) changes in the Master Plan as it relates to property outside the Peer Group in which such Person holds an interest.

11.4. Right to Approve Additional Covenants.

No Person shall Record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Neighborhood without the Founder's review and written consent. Any instrument Recorded without such consent shall be void and of no force and effect unless the Founder subsequently approves in a Recorded consent.

11.5. Right to Approve Changes in the Neighborhood Standards.

No amendment to or modification of any Canons Of Conduct or Architectural Guidelines shall be effective without prior notice to and the written approval of the Founder so long as the Founder owns property subject to this Covenant or which may become subject to this Covenant in accordance with Section 10.1.

11.6. Right to Transfer or Assign the Founder Rights.

Any or all of the Founder's special rights and obligations set forth in this Covenant or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which the Founder has under this Covenant or the By-Laws. No such transfer or assignment shall be effective unless it is in a Recorded instrument the Founder signs. The foregoing sentence shall not preclude the Founder from permitting other Persons to exercise, on a one time or limited basis, any right reserved to the Founder in this Covenant where the Founder does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record any assignment unless necessary to evidence the Founder's consent to such exercise.

11.7. Easement to Inspect and Right to Correct.

The Founder reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the property within the Neighborhood, including Units, and a perpetual nonexclusive easement of access throughout the Neighborhood to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

11.8. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Neighborhood in connection with or in anticipation of any potential or pending claim, demand or litigation involving such design or construction unless the Founder and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

11.9. Termination of Rights.

The rights contained in this Article shall not terminate until the earlier of (a) 40 years from the date this Covenant is Recorded, or (b) Recording by the Founder of a written statement that all sales activity has ceased.

PART FIVE: PROPERTY RIGHTS WITHIN THE COMMUNITY

The nature of living in a planned community, with its wide array of properties and development types and its ongoing development activity, requires the creation of special property rights and provisions to address the needs and responsibilities of the Owners, the Founder, the Association, and others within or adjacent to the community.

Article XII Easements

12.1. Easements in Common Area.

The Founder grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The Council's right to:
 - (i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
 - (ii) suspend the right of an Owner to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the By-Laws;
 - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Covenant;
 - (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;
 - (v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Council and designate other areas and facilities within the Area of Common Responsibility as open for the use and enjoyment for the public;
 - (vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Sections 16.8 and 19.4; and

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Council. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

12.2. Easements of Encroachment.

The Founder grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

12.3. Easements for Utilities, Etc.

(a) Installation and Maintenance. The Founder reserves for itself, so long as the Founder owns any property described in Exhibit "A" or "B" of this Covenant, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout the Neighborhood (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing utilities and infrastructure to serve the Neighborhood, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, drainage systems, street lights, and signage on property which the Founder owns or within public rights-of-way or easements reserved for such purpose on Recorded plats;

(ii) inspecting, maintaining, repairing and replacing the utilities, infrastructure and other improvements described in Section 12.3(a)(i); and

(iii) access to read utility meters.

(b) Specific Easements. The Founder also reserves for itself the non-exclusive right and power to grant and Record such specific easements as may be necessary, in the sole discretion of the Founder, in connection with the orderly development of any property described in Exhibits "A" and "B." The Owner of any property to be burdened by any easement granted pursuant to this subsection (b) shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement.

Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

12.4. Easements to Serve Additional Property.

The Founder hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Covenant. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

The Founder agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their respective actions in connection with development of such property. The Founder further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Covenant, the Founder, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such Property.

12.5. Easements for Maintenance, Emergency and Enforcement.

The Founder grants to the Association easements over the Neighborhood as necessary to enable the Association to fulfill its maintenance responsibilities under Section 8.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce the Governing Documents. Such right may be exercised by any member of the Council and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

12.6. Easement for Natural Gas Transmission.

Pursuant to that certain Recorded "Right of Way Easement" filed by Williams-Transco in the Register of Deeds of Mecklenburg County, North Carolina on April 24, 1962, such parties hold a right of way easement across a portion of the Neighborhood. Such easement area is subject to the restrictions contained in such easement and subsequently adopted restrictions adopted by Williams-Transco, in addition to those found within this Covenant.

12.7. Landscape, Signage, Fence, and Irrigation Easement.

Portions of the Neighborhood shall be subject to a "Landscape, Signage, Fence, and Irrigation Easement." The Founder reserves to itself so long as the Founder owns any property

described in Exhibit "A" or "B" of this Covenant, and hereby grants to the Association a perpetual non-exclusive easement throughout the Neighborhood, including the Units, for the purpose of installing, maintaining, operating, and replacing landscape features (including the installation of trees and shrubs, mowing of grass, pruning, and similar activities), signage, fences, and irrigation systems or portions thereof (including irrigation ditches, head gates, and siphons). The area of such easement shall be designated on Recorded plats of the Neighborhood. Owners shall not install fences upon or across such easement that would prevent the Association from entering upon the easement to perform the activities listed above.

Article XIII Limited Common Areas

13.1. Purpose.

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Peer Group or Peer Groups. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes, and other portions of the Common Area within a particular Peer Group or Peer Groups. All costs associated with maintenance, repair, replacement, and insurance of an Limited Common Area shall be a Peer Group Expense allocated among the Owners in the Peer Group(s) to which the Limited Common Areas are assigned.

13.2. Designation.

Initially, any Limited Common Area shall be designated as such in a Supplemental Declaration submitting such area to the Association ; however, any such assignment shall not preclude the Founder from later assigning use of the same Limited Common Area to additional Units and/or Peer Groups, so long as the Founder has a right to subject additional property to this Covenant pursuant to Section 10.1.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area and Limited Common Area may be reassigned upon approval of the Council and the vote of Members representing a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Neighborhood(s) affected by the proposed assignment or reassignment. As long as the Founder owns any property subject to this Covenant or which may become subject to this Covenant in accordance with Section 10.1, any such assignment or reassignment shall also require the Founder's written consent.

13.3. Use by Others.

Upon approval of a majority of Owners of Units within the Peer Group to which any Limited Common Area is assigned, the Association may permit Owners of Units in other Peer Groups to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Peer Group Expenses attributable to such Limited Common Area.

Article XVI Party Walls and Other Shared Structures

14.1. General Rules of Law to Apply.

Each wall, fence, driveway, or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XV.

14.2. Maintenance; Damage and Destruction.

The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

PART SIX: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

The growth and success of the Neighborhood as a place in which people enjoy living, working, and playing requires good faith efforts to resolve disputes amicably, attention to and understanding of relationships within the neighborhood and with our neighbors, and protection of the rights of others who have an interest in the neighborhood.

Article XV Dispute Resolution and Limitation on Litigation

15.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) The Founder, the Association and its officers, directors, and committee members, all Persons subject to this Covenant, and any Person not otherwise subject to this Covenant who agrees to submit to this Article (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Neighborhood without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 15.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance or dispute arising out of or relating to

- (i) the interpretation, application, or enforcement of the Governing Documents;
- (ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or
- (iii) the design or construction of improvements within the Community, other than matters of aesthetic judgment under Article V, which shall not be subject to review;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 15.2:

- (i) any suit by the Association to collect Assessments or other amounts due from any Owner;
- (ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Covenant (relating to creation and maintenance of neighborhood standards);
- (iii) any suit between Owners, which does not include the Founder or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;
- (iv) any suit in which any indispensable party is not a Bound Party; and
- (v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 15.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

15.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Council stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent 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 Council may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 15.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Davidson area.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party shall bear its own costs of the mediation, including attorneys fees, and each Party shall share equally all fees charged by the mediator.

Alternative Dispute Resolution Process



(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

15.3. Initiation of Litigation by Association.

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of 75% of the total Class "A" votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Class "B" Control Period;
- (b) initiated to enforce the provisions of this Covenant, including collection of assessments and foreclosure of liens;
- (c) initiated to challenge ad valorem taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it; or

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

Article XVI Mortgage Provisions

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Neighborhood. The provisions of this Article apply to both this Covenant and to the By-Laws, notwithstanding any other provisions contained therein.

16.1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage which provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Neighborhood or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- (b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or Occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

16.2. Other Provisions for First Lien Holders.

To the extent not inconsistent with North Carolina law:

(a) Any restoration or repair of the Neighborhood after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Covenant and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

(b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.

16.3. Amendments to Documents.

The following provisions do not apply to amendments to the constituent documents or termination of the Association as a result of destruction, damage, or condemnation pursuant to Section 16.3(a) and (b), or to the addition of land in accordance with Article X.

(a) The consent of at least 67% of the Class "A" votes and of the Founder, so long as it owns any land subject to this Covenant, and the approval of the Eligible Holders of first Mortgages on Units to which at least 67% of the votes of Units subject to a Mortgage, shall be required to terminate the Association.

(b) The consent of at least 67% of the Class "A" votes and of the Founder, so long as it owns any land subject to this Covenant, and the approval of Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to a Mortgage appertain, shall be required materially to amend any provisions of the Covenant, By-Laws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;

- (vi) responsibility for maintenance and repair of the Neighborhood;
- (vii) expansion or contraction of the Neighborhood or the addition, annexation, or withdrawal of real property to or from the Association;
- (viii) boundaries of any Unit;
- (ix) leasing of Units;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;
- (xi) establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- (xii) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

16.4. No Priority.

No provision of this Covenant or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

16.5. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

16.6. Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Council to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

16.7. Construction of Article XVI.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Covenant, the By-Laws, or North Carolina law for any of the acts set out in this Article.

16.8. HUD/VA Approval.

As long as there is a Class "B" membership, the following actions shall require the prior approval of the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs, if either such agency is insuring or guaranteeing the Mortgage on any Unit: merger, consolidation, or dissolution of the Association; annexation of additional property other than that described in Exhibit "B"; dedication, conveyance, or mortgaging of Common Area; or material amendment of this Covenant or the By-Laws. The granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a conveyance within the meaning of this Section.

Article XVII Private Amenities

Access to and use of any Private Amenity is strictly subject to the rules and procedures of the owner of such Private Amenity, and no Person gains any right to enter or to use any Private Amenity by virtue of membership in the Association or ownership or occupancy of a Unit.

All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by the Founder, the Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the future existence or continuing ownership or operation of the Private Amenities. No purported representation or warranty in such regard, written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of the Private Amenity.

Ownership or operation of any Private Amenity may change at any time by virtue of, but without limitation (a) the sale to or assumption of operations by an independent Person, (b) establishment of, or conversion of the membership structure to, an "equity" club or similar arrangement whereby the members of a Private Amenity or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Amenity, or (c) the conveyance of a Private Amenity to one or more affiliates, shareholders, employees, or independent contractors of the Founder. Consent of the Association or any Owner shall not be required to effectuate any change in ownership or operation of any Private Amenity, subject to the terms of any written agreements entered into by such owners.

Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether.

PART SEVEN: CHANGES IN THE COMMUNITY

Communities such as the Neighborhood are dynamic and constantly evolving as circumstances, technology, needs and desires, and laws change, as the residents age and change over time, and as the surrounding community changes. The Neighborhood and its Governing Documents must be able to adapt to these changes while protecting the things that make the Neighborhood unique.

Article XVIII Changes in Ownership of Units

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Council at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Council may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Council, notwithstanding the transfer of title.

Article XIX Changes in Common Area

19.1. Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Council acting on the written direction of at least 67% of the total Class "A" votes in the Association and of the Founder, as long as the Founder owns any property subject to the Covenant or which may be made subject to the Covenant in accordance with Section 10.1) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Founder, so long as the Founder owns any property subject to the Covenant or which may be made subject to the Covenant in accordance with Section 10.1, and at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Council. The provisions of Section 8.3(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Council shall determine.

19.2. Partition.

Except as permitted in this Covenant, the Common Area shall remain undivided, and no Person shall bring any action for partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Council from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Covenant.

19.3. Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to Mecklenburg County, North Carolina, the Town of Davidson, or to any other local, state, or federal governmental or quasi-governmental entity, subject to such approval as may be required by Sections 16.8 and 19.4.

19.4. Actions Requiring Owner Approval.

If either the U.S. Department of Housing and Urban Development or the U.S. Department of Veterans Affairs insures or guarantees the Mortgage on any Unit, then the following actions shall require the prior approval of Voting Members representing not less than two-thirds (2/3) of the total Class "A" votes in the Association and the consent of the Class "B" Member, if such exists: merger, consolidation or dissolution of the Association; annexation of additional property other than that described in Exhibit "B;" and dedication, conveyance or mortgaging of Common Area. Notwithstanding anything to the contrary in Section 19.1 or this Section, the Association, acting through the Council, may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the membership.

Article XX Amendment of Covenant

20.1. By the Founder.

In addition to specific amendment rights granted elsewhere in this Covenant, until conveyance of the first Unit to a Person other than a Builder, the Founder may unilaterally amend this Covenant for any purpose. Thereafter, the Founder may unilaterally amend this Covenant if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

So long as the Class "B" membership exists, the Class "B" Member may unilaterally amend this Covenant for any other purpose, provided the amendment has no materially adverse effect upon the rights of the Members.

20.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Covenant, this Covenant may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing 75% of the total Class "A" votes in the Association, including 75% of the Class "A" votes held by Members other than the Founder, and the Founder's consent, so long as the Founder owns any property subject to this Covenant or which may become subject to this Covenant in accordance with Section 10.1. In addition, the approval requirements set forth in Article XVI shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

20.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of the Founder or the Class "B" Member without the Founder's written consent or the Class "B" Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Covenant or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon Recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within one year of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Covenant.

20.4. Exhibits.

Exhibits "A" and "B" attached to this Covenant are incorporated by this reference and amendment of such exhibits shall be governed by this Article. Exhibit "C" attached to this Covenant is incorporated by this reference and its amendment is governed by this Article and Article IV. Exhibit "D" to this Declaration is attached for informational purposes and may be amended as provided.

IN WITNESS WHEREOF, the undersigned Founder has executed this Covenant the date and year first written above.

EXHIBIT "A"

Land Initially Submitted

1.

Peer Group Designation: Single Family

ALL THAT TRACT OR PARCEL OF LAND lying and being in Deweese Township, Mecklenburg County, North Carolina, containing approximately 6.19 acres and 26 lots (lots 1-26 inclusive), as shown and more particularly described on that recorded Final Plat of A New Neighborhood in Old Davidson - Phase 1, Map 1, prepared by Mitcham & Associates, P.A., containing the seal of Jeffrey C. Allen, which plat was recorded with the Mecklenburg County, North Carolina Register of Deeds on May 3, 2000, in Map Book 33, Page 123. Such final recorded subdivision plat has the metes and bounds set forth therein.

2.

Peer Group Designation: Live/Work

Limited Common Area Designation: CA-2, CA-3, CA-4

ALL THAT TRACT OR PARCEL OF LAND lying and being in Deweese Township, Mecklenburg County, North Carolina, containing approximately 9.56 acres, 3 lots (Live/Work Parcel 1, Live/Work Parcel 2, lot 89), and Common Areas (CA-1 through CA-4, inclusive), as shown and more particularly described on that recorded Final Plat of A New Neighborhood in Old Davidson – Phase 1, Map 2, prepared by Mitcham & Associates, P.A., containing the seal of Jeffrey C. Allen, which plat was recorded with the Mecklenburg County, North Carolina Register of Deeds on May 17, 2000, in Map Book 33, Page 191. Such final recorded plat has the metes and bounds set forth therein.

3.

Peer Group Designation: Townhome

Limited Common Area Designation: CA-5, CA-6, CA-7, CA-9, CA-10, CA-12

ALL THAT TRACT OR PARCEL OF LAND lying and being in Deweese Township, Mecklenburg County, North Carolina, containing 29 lots (Building A, lots 125 through 129, inclusive; Building B, lots 130 through 136, inclusive; Building C, lots 137 through 142, inclusive; Building D, lots 143 through 148, inclusive; Building E, lots 149 through 153, inclusive) and Common Areas (CA-5 through CA-12, inclusive), as shown and more particularly described on that recorded Final Plat of A New Neighborhood in Old Davidson – Phase 1, Map 3, prepared by Mitcham & Associates, P.A., containing the seal of Jeffrey C. Allen, which plat was recorded with the Mecklenburg County, North Carolina Register of Deeds on May 9, 2000, in Map Book 33, Page 139. Such final recorded plat has the metes and bounds set forth therein.

EXHIBIT "B"

Land Subject to Annexation

Any tract or parcel of land located on the northeast side of Concord Road and within 2,500 feet of the intersection of Caldwell Lane and St. Alban's Lane.

EXHIBIT "C"

Initial Canons Of Conduct

The following restrictions shall apply to all of The Neighborhood until such time as they are amended, modified, repealed or limited pursuant to Article IV of the Covenant.

1. General. The Neighborhood shall be used only for residential, recreational, limited business (which may include, without limitation, home offices and Live/Work Units, pursuant to Section 4.5(a) of the Declaration), and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by the Founder to assist in the sale of property described in Exhibits "A" or "B," offices for any property manager retained by the Association, or business offices for the Founder or the Association) consistent with this Covenant and any Supplemental Covenant. Leasing or rental of any portion of a Unit is permitted subject to the provisions of Section 4.5 and only for permitted purposes.

2. Restricted Activities. The following activities are prohibited within all Peer Groups unless expressly authorized by, and then subject to such conditions as may be imposed by, the Council of Stewards:

(a) Parking of vehicles on public streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles or inoperable vehicles in places other than enclosed garages; provided that:

(i) construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make delivery to a Unit or the Common Area;

(ii) Passenger vehicles may be parked in a driveway for less than a four hour period, or otherwise no closer than 10 feet behind the minimum front setback or 10 feet behind the front plane of the dwelling, whichever is further from the street;

(iii) Guests' and invitees' vehicles shall be exempt from this provision so long as such vehicle remains on the public street or thoroughfare no longer than 48 hours at a time;

(b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, those pets which are permitted to roam free, or, in the sole discretion of the Council, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Council. If the pet owner fails to honor such request, the Council may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Council whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity which violates local, state, or federal laws or regulations; however, the Council shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

(f) Any noxious or offensive activity which in the reasonable determination of the Council tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials, except in the case of controlled campfires within specifically designated portions of the Common Area as designated by the Council and subject to any rules promulgated by the Council and local government;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Use and discharge of firecrackers and other fireworks;

(j) Dumping grass clippings, leaves, or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Neighborhood, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and the Founder and Builders may dump and bury rocks removed from a building site on such building site;

(k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(l) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that the Founder and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;

(m) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that the Founder shall be permitted to subdivide or replat Units which it owns;

(n) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years;

(p) Discharge of firearms; provided, the Council shall have no obligation to take action to prevent or stop such discharge;

(q) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV;

(r) Any garage sale, moving sale, rummage sale or similar activity, except that an Owner or occupant residing in a Unit may hold such a sale lasting no longer than 72 consecutive hours up to two times in any calendar year; moreover, the Association may designate dates and times for such sales for all Owners and occupants of Units' participation;

(s) Capturing, trapping, or killing of wildlife within the Neighborhood, except in circumstances posing an imminent threat to the safety of persons using the Neighborhood;

(t) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Neighborhood or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(u) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article IV;

(v) Operation of motorized vehicles on pathways or trails maintained by the Association, except for the operation of motorized vehicles at the direction of the Association and designated utilities, including Williams-Transco, for maintenance purposes; and

(w) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article V of the Covenant. This shall include, without limitation, signs, basketball hoops, swing sets, and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers, and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind.

Standard TV antennas and satellite dishes which are 24 inches in diameter or less shall be permitted at the Neighborhood; however, such over-the-air reception devices shall comply with all Architectural Guidelines and other applicable Canons Of Conduct pertaining to the location and manner of installation. the Founder and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Neighborhood, should any master system or systems be utilized by the Association and require such exterior apparatus.

3. Prohibited Conditions. The following shall be prohibited at the Neighborhood:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Neighborhood;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair; and

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Neighborhood, except that the Founder and the Association shall have the right to draw water from such sources.

EXHIBIT "D"

By-Laws of St. Alban's Square Neighborhood Association, Inc.

EXHIBIT "E"

Initial Peer Group Maintenance Levels

TOWN HOMES

1. Maintenance of Limited Common Area adjacent to buildings.
2. Acquiring and funding property casualty and liability insurance for buildings.
3. Acquiring and funding a termite bond.
4. Roof maintenance, repair and replacement.
5. Painting exterior of building.
6. Maintenance, repair and replacement of exterior brick, siding, shutters, windows, doors, wood trim, gutters and downspouts, and the underground drainage pipes between the building and the public storm drain system.
7. Maintenance of lawn area and landscaping improvements within byway rights-of-way and between the byway right-of-way and garage
8. Maintenance and replacement of lawns and shrubbery within the yard area between the front plane of the building and the sidewalk. At the election of the homeowner, the Association shall maintain the homeowner's lawn area and shrubbery although the yard enclosed by a fence provided the yard is not separated from the sidewalk by a gate. The Association shall maintain the lawn and shrubbery but the homeowner shall maintain all other improvements to the yard including fencing.

Note: Private yards are defined as yard area located between the front plane of the house and the garage between the side lot lines and shall be maintained by the property owner. The side yard setback will be treated as the side lot line for end units for the purpose of defining the limit private yard area.

LIVE/WORK UNITS

1. Maintenance of Limited Common Area adjacent to buildings.
2. Acquiring and funding property casualty and liability insurance for buildings.
3. Acquiring and funding a termite bond.
4. Roof maintenance, repair and replacement.
5. Painting exterior of building.
6. Maintenance, repair and replacement of exterior brick, siding, shutters, windows, doors, wood trim, gutters and downspouts, and the underground drainage pipes between the building and the public storm drain system.
7. Maintenance of lawn area and landscaping improvements within byway rights-of-way and between the byway right-of-way and garage
8. Maintenance and replacement of lawns and shrubbery within the yard area between the front plane of the building and the sidewalk. At the election of the homeowner, the Association shall maintain the homeowner's lawn area and shrubbery although the yard enclosed by a fence provided the yard is not separated from the sidewalk by a gate. The Association shall maintain the lawn and shrubbery but the homeowner shall maintain all other improvements to the yard including fencing.
9. Maintenance and replacement of landscaping within the buffer area between the byway and adjacent properties.

Note: Private yards are defined as yard area located between the front plane of the house and the garage between the side lot lines and shall be maintained by the property owner. The side yard setback will be treated as the side lot line for end units for the purpose of defining the limit private yard area.

SINGLE FAMILY DETACHED HOMES

1. Additional maintenance is not required; however, as stated in Section 8.3, maintenance levels for Single Family Homes may be added to or modified.

Upon recording, please return to: Douglas Boone
Boone Communities
PO Box 339
Davidson, NC 28036

Recorded in Register of Deeds
Mecklenburg County, NC
June 1, 2000
Book 11326, Page 875 - 963

THE COVENANT
FOR
THE NEW NEIGHBORHOOD AROUND
ST. ALBAN'S SQUARE IN
DAVIDSON, NORTH CAROLINA

HYATT & STUBBLEFIELD, P.C.
Attorneys and Counselors
225 Peachtree Street, N.E.
1200 Peachtree Center South Tower
Atlanta, Georgia 30303

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