

Improvements over such streets, drives, roadways, sidewalks, paths, walks and parking areas within or upon the Common Area. Notwithstanding the foregoing, as long as the Declarant or any of its affiliates owns any property in the Community, the Declarant, by Supplemental Declaration or other written instrument, may limit or restrict access to certain private streets, drives, roadways, walkways, paths and parking areas within or upon the Common Area.

5.2.4. Declarant and Declarant's Permittees shall have the right from time to time to enter upon the Common Areas and other portions of the Property (including Lots and Units) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion or alteration of any Improvements or facilities on the Common Areas or elsewhere in the Property that the Declarant and Declarant's Permittees, as appropriate, elect to effect.

5.2.5. Declarant shall have the right to convert Common Areas to Lots or Lots to Common Areas, in which event Declarant shall record an amendment to this Declaration in the Registry, together with such plats showing the boundaries of any such Lots or Common Areas so converted.

5.2.6. Declarant and the Association shall have the right to use funds of the Association to purchase, lease, finance, and otherwise acquire interests in real property and improvements for addition to the Community as Common Area and related amenities. Declarant and the Association shall further have the right to borrow funds in the name of the Association for such purposes, on such terms as may be determined by Declarant or the Board.

5.2.7. Declarant and the Association shall have the right to enter into agreements with other communities, neighborhoods, municipalities or other third parties for the use of amenities and facilities owned or operated by such third parties. Any cost to the Association with respect to such agreements may be included as a part of Common Assessments.

WITH RESPECT TO THE USE OF THE COMMON AREAS, RECREATION FACILITIES AND THE PROPERTY GENERALLY, ALL PERSONS ARE REFERRED TO SECTIONS 20.11 AND 20.13 HEREOF WHICH SHALL AT ALL TIMES APPLY THERETO.

5.3. Right to Grant or Relocate Easements. The Declarant (as long as the Declarant or any of its affiliates owns any property in the Community) and thereafter the Association shall have the right to grant, convey and relocate easements, licenses or rights of way in, on, over or under the Common Areas for purposes consistent with the terms of this Declaration, including constructing, installing, erecting, operating or Maintaining thereon, therein and thereunder: (.1) streets, walks, trails, driveways, parkways, landscaping, parks and open space areas; (.2) lines, cables, wires, conduits, facilities and other devices for the transmission of electricity, heating, cooling, water, sanitary sewerage, gas, television, telephone, voice or electronic data and other similar purposes; (.3) Stormwater Control Measures; (.4) irrigation systems; (.5) any Improvements or uses for the general health or welfare of the Owners, for the Maintenance of the Property, or any portion thereof, or for the purpose of carrying out any provision of this Declaration; and (.6) any similar Improvements or uses not inconsistent with the use of such

property pursuant to this Declaration as the Declarant shall deem necessary or desirable. Notwithstanding the foregoing, such easements or the relocation of existing easements will not prevent or unreasonably interfere with the use and enjoyment of the Common Areas or the use of or ingress and egress to the Lots and Future Development Property for their intended purposes.

5.4. Association Easements over Lots and Units. The Association and its duly authorized agents, employees or independent contractors shall have an easement over each Lot and Unit as may be reasonably necessary to carry out any provision of this Declaration, including the Maintenance of Common Areas, performance of Lot Landscaping, Exterior Maintenance, Restoration of portions of the Property, enforcement of this Declaration, inspection (in a reasonable manner) in order to determine whether any Maintenance is necessary, performance of remedial work, and to the extent that the Association is obligated or authorized to perform any Lot Landscaping, Exterior Maintenance, or Restoration, to perform such Lot Landscaping, Exterior Maintenance, or Restoration provided that any such entry is during reasonable hours. Nothing contained in this Section shall be construed or interpreted to impose upon the Association the obligation to Maintain any of the Property except as expressly set forth in this Declaration. Neither the Declarant, the Association, nor any of their respective directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any portion of the Property or failure to Maintain the same. The Declarant, the Association, or any other authorized Person undertaking such Maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the Maintenance of any portion of the Lots, Units, Common Areas or Improvements thereon or portion thereof. In addition, the Association may, without notice, perform such emergency Maintenance as it may determine is necessary for the safety of any Person or to prevent damage to any property. The provisions of this Section shall not be deemed to create any right of the Association to enter upon the property of the Declarant.

5.5. Utility Easements. Utilities in the Common Areas for the service of the Property shall be installed underground except as otherwise permitted by Declarant.

5.6. Access for Governmental Agencies; Service and Emergency Easements. A non-exclusive, perpetual right of access over all Lots, and Future Development Property and Common Areas (including private streets, if any) on the Property is established for the benefit of governmental entities for installing, removing and reading utility meters, Maintaining and replacing utility facilities and lines, and acting for other purposes consistent with public safety and welfare, including law enforcement, fire protection, animal control, emergency services, garbage collection and public or private mail and package delivery.

5.7. Easements for Pedestrian and Vehicular Traffic. In addition to the general easements for use of the Common Area reserved herein, there shall be, and the Declarant hereby reserves and grants for itself and all future Owners and their family members, Permitted Users, invitees, contractors, Mortgagees and the Association, a perpetual, non-exclusive easement for: (.1) vehicular traffic over all streets dedicated to the public use, if any, and private streets, roadways and alleys within or upon the Common Area for access, ingress, and egress from and to such public

streets; (.2) pedestrian traffic over, upon and across all sidewalks, walkways, walking trails and paths within or upon the Common Area; and (.3) vehicular parking on such portions of the Common Area as from time to time may be intended and designated for general parking purposes by the Board of Directors.

5.8. Encroachments; Easements. If (.1) any Improvement on the Common Area encroaches upon any Lot; (.2) any Improvement on any Lot encroaches upon the Common Area or another Lot; or (.3) any encroachment shall hereafter occur as a result of (a) construction of a Unit or Improvement to a Common Area; (b) settling or shifting of a Unit, Attached Townhome Building or Improvement to Common Area; (c) any alteration or repair to a Unit, Attached Townhome Building or Improvement to Common Area made by or with the consent of the Owner, Association or the Declarant, as appropriate, or (d) any Restoration of the Improvements to a Unit, Lot, Attached Townhome Building or Common Area (or any portion thereof) damaged by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit, Lot or Common Area, then, in such event, a valid easement is granted and shall exist for such encroachment and for the maintenance of the same so long as the Improvements causing the encroachment shall stand. This provision shall not entitle any Owner to intentionally construct Improvements which encroach upon any other portion of the Property and no easement for encroachment shall exist if such encroachment occurred due to the willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, Permitted User or the Association.

5.9. Support and Other Easements for Attached Townhomes. Each Attached Townhome shall have the following easements: (.1) for lateral and subjacent support of, in and to all exterior walls, Party Walls, structural members, roof, footings and foundations of the Unit or other Improvements which abut or support the Attached Townhome; (.2) for Maintenance of common construction improvements, such as footings, supports and foundations, which abut or support the Attached Townhome; (.3) for attachment of the Attached Townhome to the Party Wall(s) it shares with the adjacent Attached Townhome(s); and (4) of necessity in favor of, all other Units within Attached Townhome Building in which it is located and any other structure or improvement which abuts or supports an Attached Townhome.

5.10. Utility and Other Services; Stormwater Control Measures. In the event that any Lot or Attached Townhome Building contains utilities, telecommunications and security systems, irrigation and other services and systems and/or Stormwater Control Measures which serve more than one Unit or Lot, then there shall be an easement reserved in favor of the Association and/or the entities providing such utilities, telecommunications and security systems, and irrigation and other services and systems and/or drainage facilities under, through and over each Unit therein and the Lot on which it is located as may be required from time to time in order to Maintain such utilities, telecommunications and security systems, irrigation and other services and systems and drainage facilities so long as the easement does not materially adversely affect the Owner's use and enjoyment of its Unit as a residence. Stormwater Control Measures serving more than one Lot shall be Maintained continuously in good condition by the Association and easements are granted hereby over all Lots in favor of all Owners and the Association with respect thereto.

No Owner shall do anything within or outside its Unit that interferes with or impairs, or may interfere with or impair, the provision of such utilities, telecommunications and security systems, and other services and systems and/or Stormwater Control Measures or the use of easements for the foregoing purposes. The Association or its agent shall have a right of access to each Lot and Unit thereon to Maintain the pipes, wires, ducts, vents, cables, conduits and other facilities for utilities, telecommunications and security systems, and other services and systems and for Stormwater Control Measures located on the Lot or elsewhere in the Property and serving an Attached Townhome Building, and to remove any improvements interfering with or impairing such facilities or easements reserved herein. Such right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owner's permitted use of the Unit. Except in the event of an emergency (which shall not require prior notice), entry shall be made on not less than one (1) day's notice (which notice shall not, however, be required if the Owner is absent when the giving of such notice is attempted).

5.11. Easements of Support. Whenever any structure included in the Common Areas adjoins any structure included in any other portion of the Property, each said structure shall have and be subject to an easement of support and necessity in favor of the other structure.

5.12. Easements Appurtenant. The easements provided in Article 5 shall be appurtenant to and shall pass with the title to each Lot and, if applicable, title to Future Development Property.

6. FUNCTIONS OF THE ASSOCIATION.

6.1. Powers and Duties. Subject only to such limitations expressly set forth in the Governing Documents, the Association (.1) shall have all of the powers of a North Carolina not-for-profit corporation; (.2) shall have and may exercise any right or privilege given to it expressly in the Governing Documents; (.3) shall have and may exercise any right or privilege given to it by the Act or other law and (.4) shall have and may exercise every other right, privilege, power or authority necessary or desirable to fulfill its obligations under the Governing Documents.

6.2. Assessments. The Association shall have the power and duty to impose Assessments on the Owners of Lots with respect to which Assessments have commenced and to collect and enforce payment of such Assessments in accordance with the provisions of Article 11.

6.3. Maintenance of Other Property. The Association may Maintain other property which it does not own, including common areas of any Sub-Association or property dedicated to the public, (.1) if such Maintenance is required by this Declaration, any covenants binding the Property or any governmental order, (.2) if the Board of Directors determines that such Maintenance is necessary or desirable to cause compliance with this Declaration or to enhance the appearance or value of the Property, or (.3) if the Maintenance is requested by the Person responsible for such Maintenance and the cost of it is charged to such Person with security or other assurances for payment acceptable to the Board. As to any Maintenance performed by the Association pursuant to the Governing Documents as to property it does not own, the Association shall have the right to file, amend, release and terminate claims of lien pursuant to N.C. Gen. Stat.

§44A.

6.4. Rules. The Association shall have the power to adopt, amend and enforce rules and regulations applicable within the Property with respect to any Common Areas and those portions of a Lot or Unit Maintained by the Association, and to implement the provisions of the Governing Documents. All rules and regulations adopted by the Association shall be reasonable and shall be uniformly applied, except such rules may differentiate between reasonable categories of the Property and Owners, Permitted Users, invitees and contractors. Notwithstanding the foregoing provisions of this Section, the Association shall not have the right or power to amend this Declaration or impose rules and regulations which limit or interfere with the rights of the Declarant under this Declaration. A copy of the rules, as they may from time to time be adopted, amended or repealed, shall be posted in a conspicuous place in the Association's office or may be mailed or otherwise made available to each Owner. Thereafter, the rules and regulations shall have the same force and effect as if they were set forth herein; provided, however, that the rules and regulations shall be enforceable only to the extent that they are consistent with the Governing Documents, and may not be used to amend any of such documents. If any Owner has actual knowledge of any rules and regulations, such rules and regulations shall be enforceable against such Owner as though notice had been given.

6.5. Borrowing. The Association has the right with the consent of the Declarant, as long as the Declarant or any of its affiliates owns any property in the Community, to borrow money for any purpose, subject to any limitation in this Declaration, to execute promissory notes, other documents evidencing or securing the indebtedness; provided that in the event the aggregate amount of principal indebtedness incurred by the Association in any Fiscal Year exceeds the greater of \$250,000, as adjusted by the CPI, or forty (40%) percent of the Association's budget for the previous year, then such actions must be approved by Owners holding a majority of the voting interests present in person or by proxy at a duly called meeting of the Association at which a quorum is attained. In the event that the Association desires to mortgage, pledge or encumber any or all of its Common Area as security for money borrowed or debts incurred, then the Association must obtain the approval of eighty (80%) percent of the total voting interests of the Owners.

6.6. Marketing. The Association may provide a suitable and continuing program to promote the Community as a desirable residential community, including advertising, organizing and coordinating major events, advertising, placing articles in news media, and establishing uniform standards for promotional events.

6.7. Special Events. The Declarant and the Board of Directors shall have the right, but not the obligation, to grant special use rights, permits and privileges in the Common Area and Improvements thereon for special events, festivals, street fairs, valet parking and other usage. In addition, the Association shall have the right to enter into agreements with the Sub-Association, if any, or others for purposes relating to, the joint or cooperative marketing, advertising and promoting of the Community, regulating and providing parking within the Community, including special event parking, and other areas of interest to the Association and its Members.

6.8. Indemnification. The Association shall be obligated to and shall indemnify the Declarant and hold it harmless from all liability, loss, cost, injury, damage and expense, including attorneys' fees, arising with respect to any operations of or services provided by the Association hereunder.

7. MAINTENANCE OF IMPROVEMENTS, UNITS, LOTS AND COMMON AREAS

7.1. Exterior of Improvements.

7.1.1. To the extent that the Association has the express obligation to perform Attached Townhome Maintenance for any Improvements to a Lot pursuant to this Declaration, any Supplemental Declaration, or other declaration of covenants and restrictions or similar recorded instrument, then the Association shall be responsible for performing those obligations which have been delegated to it in a neat, orderly and attractive manner consistent with the standards set forth in Section 7.6.

7.1.2. The Maintenance of all Improvements located on the Lot which has not been expressly delegated to the Association pursuant to this Declaration, any Supplemental Declaration, any Sub-Association Declaration or pursuant to a declaration of condominium or declaration of covenants and restrictions or similar recorded instrument shall be the sole obligation of the Owner(s) of such Lot or Unit. Other than the Lot Landscaping Maintained by the Association, each Owner shall Maintain the trees, shrubbery, grass and other landscaping, and all parking, pedestrian, recreational and other open areas on his Lot in a neat, orderly and attractive manner and consistent with the standards set forth in Section 7.6.

7.1.3. By way of example and not limitation, the Association shall provide Attached Townhome Services for each Attached Townhome. However, each Attached Townhome Owner is solely responsible for all other Maintenance to the Unit and Lot which is not expressly included in the definition of Attached Townhome Services. Without intending to limit the foregoing sentence, each Attached Townhome Owner shall Maintain or cause to be Maintained all portions of the Lot and Improvements thereon (including all appliances, interior walls, structural components, and plumbing, electrical and mechanical systems of his Unit) located on his Lot in a neat, orderly and attractive manner consistent with the standards set forth in Section 7.6.

7.2. Lot Landscaping. The Association shall Maintain the Lot Landscaping in the front, side and back yards of each Lot in a neat, orderly and attractive manner. The Association shall not be obligated to Maintain any Lot Landscaping within any enclosed or fenced areas on a Lot. Nor shall the Association be required to perform Lot Landscaping when an unsafe condition exists on a Lot, including a loose animal. The Maintenance of the Lot Landscaping may include, but shall not necessarily be limited to: the cutting or trimming of grass, trees and shrubs; the re-seeding, re-sodding or replanting of grass; the replanting trees or shrubs; the re-mulching and weeding of mulched areas, the repair and replacement of Lot irrigation installed by the Declarant, a Participating Builder or the Association; and the routine, customary application of fertilizer, pesticide and algaecide or fungicide, if necessary or recommended. The Association shall not be

required to Maintain any shrubbery, grass and other landscaping other than the usual and customary landscaping provided by the Declarant or Participating Builder or its replacement provided by the Association. The Association shall have the right to remove any Lot Landscaping which becomes a nuisance. The Association shall have the sole discretion to determine the time at which such Lot Landscaping shall take place, the manner and materials to be used. The replacement of Lot Landscaping of any particular Lot, which is necessitated by deterioration of existing materials, shall also be the responsibility of the Association.

7.3. Remedies for Noncompliance.

7.3.1. In the event an Owner fails to Maintain or cause to be Maintained his Improvements and Lot in accordance with this Article 7, the Association shall have the right (but not the obligation), upon five (5) days' prior written notice to the Owner at the address last appearing in the records of the Association, to enter upon the Owner's Lot and perform such work as is necessary to bring the Lot or Improvements, as applicable, into compliance with the standards set forth in Section 7.6. Such work may include, but shall not necessarily be limited to, the repainting or restaining of exterior surfaces of an Improvement, the repair of walls, fences, roofs, doors, windows and other portions of Improvements on a Lot; and such other remedial work as is judged necessary by the applicable entity.

7.3.2. The remedies provided for herein shall be cumulative with all other remedies available under this Declaration or other applicable covenants or deed restrictions (including the imposition of Individual Assessments or the filing of legal or equitable actions).

7.4. Costs of Remedial Work; Surcharges. In the event that the Association performs any remedial work on an Improvement or Lot pursuant to this Article or any other applicable covenants or deed restrictions, the costs and expenses thereof shall be deemed an Individual Assessment under Article 11 of this Declaration and may be immediately imposed by the Association. In order to discourage Owners from abandoning certain duties hereunder and, additionally, to reimburse itself for administrative expenses incurred, the Association may impose a surcharge of not more than twenty-five (25%) percent of the cost of the applicable remedial work, such surcharge to be a part of the Individual Assessment. No bids need be obtained for any of the work performed pursuant to this Section and the Person(s) performing such work may be selected by the applicable enforcing entity in its sole discretion.

7.5. Right of Entry; Right to File Notices of Lien Rights.

7.5.1. There is hereby created an easement in favor of the Association and its designees, over each Lot including the Unit thereon for the purpose of entering onto the Lot in the performance of Lot Landscaping, Attached Townhome Services, and any other Maintenance for which the Association has Maintenance responsibility, or for which the Association is otherwise permitted or required to perform the Maintenance and any other herein described, provided that the Association shall exercise such easement for entry into a Unit during reasonable hours.

7.5.2. In addition to the assessment and lien rights created hereby, the Association shall have, pursuant to N.C. Gen. Stat. §44A, the right to file notices of lien rights, claims of lien, amendments thereto, notices of termination and satisfactions as to any Lot for which it has the obligation to perform Lot Landscaping, Attached Townhome Services, or any other Maintenance, or for which the Association is otherwise permitted or required to perform the Maintenance.

7.6. Standards for Maintenance; Restoration. All Maintenance and Restoration of Property, Units, Lots and the performance of Lot Landscaping and Attached Townhome Services shall be performed in a manner consistent with the general appearance of the developed portions of the Property and, as to Units, the portion of the Property in which the Unit is located. The minimum (though not sole) standard for the landscaping shall be the more stringent of the following: the Community standard or the general appearance of the Property (and the applicable portion thereof as aforesaid) as initially landscaped (such standard being subject to being automatically raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly Maintained). The minimum (though not sole) standard for Maintenance and Restoration of Property, Units and Lots shall be the more stringent of the following: the Community standard or the prevailing standard for the portion of the Property in which the Unit is located taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness, in the judgment of Declarant or the ARB (as hereinafter defined). The Person responsible for Maintenance (the Owner or Association, as applicable) shall repaint, restain, or refinish, as appropriate, the exterior portions of his Improvements (with the same colors and materials as initially used or as approved by Declarant or the ARB) as often as is necessary to comply with the foregoing standards.

7.7. Other Maintenance Services. The Association may also assume Maintenance responsibilities with respect to any other Lots in addition to those that may be designated in this Declaration or in any Supplemental Declaration. This assumption of responsibility may take place by agreement with Owners of Lots or because, in the opinion of the Board of Directors, the level and quality of service then being provided is not consistent with the standards set forth in Section 7.6. All costs of Maintenance pursuant to this Section 7.7 shall be assessed as a Special Assessment or Individual Assessments only against the Lots to which the services are provided, unless specifically provided otherwise in a Supplemental Declaration. The provision of services in accordance with this Section shall not constitute discrimination within a class.

7.8. Common Area Maintenance. The Association shall at all times Maintain in good repair, operate, manage, insure, and replace as often as necessary the Common Areas and all Improvements situated on the Common Areas (upon completion of construction by Declarant or its affiliates, if applicable) in a neat, orderly and attractive manner consistent with the standards set forth in Section 7.6. Without limiting the generality of the foregoing, the Association shall assume all of Declarant's, its affiliates' (and its and their predecessors') responsibility to the City, its respective governmental and quasi-governmental subdivisions and similar entities of any kind with respect to the Common Areas, including roads and entry features, and shall indemnify Declarant and its affiliates and hold Declarant and its affiliates harmless with respect thereto.

7.9. Maintenance of Stormwater Control Measures. In order to provide drainage, water storage, conveyance, or other stormwater management capabilities as required by the City, the Association shall Maintain, operate, repair and replace the Stormwater Control Measures, as directed by the governmental office having jurisdiction for watershed protection, as a Common Expense. Repairs and maintenance shall include but are not limited to the cost of repairs, replacements, and additions, and the cost of labor, equipment materials management and supervision or repairs to the Stormwater Control Measures. If the Association should be dissolved or cease to exist, then in that event all the Owners of record of all Lots within the Community at the time of required Maintenance shall be jointly and severally liable for any and all costs attendant thereto. The assessments levied by the Association shall be used as required or deemed appropriate by the Association for the repair and/or maintenance of the Stormwater Control Measures. Assessments shall also provide for the procurement and maintenance of liability insurance, the provision of adequate reserves for the replacement of major structures incorporate into the Stormwater Control Measures, and such other needs as may arise.

7.10. Street Lighting. If the street lighting is not Maintained by the City, the Declarant reserves the right to require that the Association Maintain street lighting (the term "street lighting" shall include light poles and appurtenances thereto, the light bulbs and wiring therefor) located within the Property and on nearby property and the cost of electricity therefor, and the cost and expense for the foregoing in such a case shall be a Common Expense, notwithstanding that such street lighting may be located on portions of the Property which are not owned by the Association or are not Common Areas.

8. INSURANCE.

8.1. Insurance by Owners.

8.1.1. The Owner of an Attached Townhome shall maintain: (.1) property insurance on all Improvements on its Lot insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils, wind and hail, and flood; and the total amount of such insurance after application of any deductibles shall be not less than one hundred percent (100%) of the Restoration Costs of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; (.2) property insurance in reasonable amounts on personal property located on the Lot (including, without limitation, sinks, built-in cabinets, appliances, flooring, wallpaper and similar property and fixtures); and (.3) liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Lot.

8.1.2. If the insurance described in subsection 8.1.1 is not reasonably available, the Owner promptly shall cause notice of that fact to be hand-delivered or sent by United States certified mail, return receipt requested, to the Association.

8.1.3. Insurance policies carried pursuant to subsection 8.1.1 shall provide that: (1) the Association is an additional insured under the policy to the extent of the Association's insurable interest; (2) the insurer waives its right to subrogation under the policy against the Association; (3) no act or omission by the Association, unless acting within the scope of the Association's authority on behalf of the Owner, will preclude recovery under the policy; and (4) if, at the time of a loss under the policy, there is other insurance in the name of the Association covering the same risk covered by the policy, the Owner's policy provides primary insurance.

8.1.4. An insurer that has issued an insurance policy under this section shall, upon written request, issue a certificate or memoranda of insurance to the Association, and any such policy shall provide the issuing insurer may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association.

8.1.5. Any improvement on a Lot for which insurance is required under subsection 8.1.1 which is damaged or destroyed shall be Restored promptly by the Owner of such Lot unless: (1) Restoration would be illegal under any State or local health or safety statute or ordinance; or (2) the Owners of all Lots decide not to Restore by an eighty percent (80%) vote. The Owner of a Lot shall be responsible for the cost of Restoration of any Improvement on such Lot in excess of insurance proceeds received by such Owner.

8.2. Insurance by the Association.

8.2.1. Commencing not later than the time of the first conveyance of a Lot to a Person other than Declarant or Participating Builder, the Association shall maintain: (1) property insurance on the Common Areas insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils; and the total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; (2) "bare walls" coverage on each Attached Townhome Building, insuring the structure and all electrical, mechanical, plumbing, HVAC and other systems therein, up to the unfinished surfaces of perimeter walls, ceilings and floors; and (3) liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or Maintenance of the Common Areas. The Association is responsible for the payment of premiums for such insurance, including, without limitation the liability insurance.

8.2.2. If the insurance described in subsection 8.2.1 is not reasonably available, the Association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Owners. The Association may carry any other insurance it deems appropriate to protect the Association or the Owners.

8.2.3. Insurance policies carried pursuant to subsection 8.2.1 shall provide that: (1) each Owner is an insured person under the policy to the extent of the Owner's insurable

interest; (.2) the insurer waives its right to subrogation under the policy against any Owner or Permitted User; (.3) no act or omission by any Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will preclude recovery under the policy; and (.4) if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

8.2.4. Any loss covered by the property policy under subsection 8.2.1 shall be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any Mortgagee. The insurance trustee or the Association shall hold any insurance proceeds in trust for Owners and lienholders as their interests may appear. Subject to the provisions of subsection 8.2.7, the proceeds shall be disbursed first for the Restoration of the damaged property, and Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely Restored, or the Association is dissolved.

8.2.5. An insurance policy issued to the Association does not prevent an Owner from obtaining insurance for the Owner's own benefit.

8.2.6. An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Owner, mortgagee or beneficiary under a deed of trust. Such policy shall provide the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, and to each Owner, mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

8.2.7. Any portion of the Development for which insurance is required under subsection 8.2.1 which is damaged or destroyed shall be repaired or replaced promptly by the Association unless: (.1) the Association has been dissolved; (.2) repair or replacement would be illegal under any State or local health or safety statute or ordinance; or (.3) the Owners decide not to rebuild by an eighty percent (80%) vote. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If any portion of the Common Areas is not repaired or replaced: (.1) the insurance proceeds attributable to the damaged Common Areas shall be used to restore the damaged area to a condition compatible with the remainder of the Development; and (.2) the remainder of the proceeds shall be distributed to all the Owners or lienholders, as their interests may appear, in proportion to the Common Expense liabilities of all Owners. Notwithstanding the provisions of this subsection, §2-118 of the Act governs the distribution of insurance proceeds if the Community is terminated.

8.3. Other Insurance to be Maintained by the Association.

8.3.1. The Association shall maintain fidelity coverage against dishonest acts by the Association's officers, employees and others who are responsible for handling funds of the Association. If the Association contracts with another Person to receive and disburse the monies