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Filed:
1 day of October 2003
@ 4:31 AM/PM
Patricia A. Reel
Register of Deeds
McDowell County, N.C.

**DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS**

BEAR CLIFF

Phase I and Phase II

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2003-

Pg-2

**DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

**BEAR CLIFF
Phase I**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS ("Declaration") is made this 1st day of October, 2003 by **Black Bear Development, Inc.**, a North Carolina corporation, hereinafter referred to as "Declarant". All capitalized terms used herein shall have the meanings set forth in Article 1 or elsewhere in the Declaration.

STATEMENT OF PURPOSE

Declarant is the developer and owner of Water Front and Lake View property located in McDowell County, North Carolina that is more particularly described on that map recorded in Map Book 9, on page(s) 15 and Map Book 9, on page (s) 16 in the McDowell County Public Registry. Declarant desires to provide for the creation on the property shown on that map, a residential community of single-family residences to be named Bear Cliff (the Development).

Declarant desires to insure the attractiveness of the Development, to prevent any future impairment thereof, to prevent nuisances and enhance the value and amenities of all properties within the Development. Furthermore, Declarant desires to provide for the construction and maintenance of any Access Areas and related easements within the Development, all for the use and benefit of all Property Owners, including, but not limited to, the Street Lights, Entrance Monument, Roads, and any medians located thereon.

Declarant desires to provide for a system whereby all Owners will pay for the maintenance and upkeep of any Access Areas in accordance with an established budget set by the Board of Directors. Declarant further desires to provide for a system whereby the Private Road Lot Owners will pay for the maintenance and upkeep of the Private Roads and Private Road Easements.

To these ends, Declarant desires to subject the real property described herein to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said real property and each Owner thereof.

Declarant further desires to create an organization to which will be delegated and assigned the powers of: (a) maintaining, and administering the Access Areas, except as otherwise provided in the Declaration: (b) administering and enforcing the covenants and restrictions contained herein: and (c) collection and disbursing the assessments and charges hereinafter created in order to efficiently preserve, protect and enhance the values and

amenities in the Development, to ensure specific rights, privileges and easements in the Access Areas, and provide for the maintenance and upkeep of the Access Areas and amenities as provided in the Declaration and the Bylaws.

To that end Declarant has or will cause to be incorporated under North Carolina law, pursuant to the Articles of Incorporation substantially in the form hereto as Exhibit "A" and incorporated herein by reference, BEAR CLIFF OWNERS ASSOCIATION, INC., as a non-profit corporation for the purpose of exercising and performing the aforesaid functions, said corporation to be governed by the Bylaws substantially in the form attached hereto as "Exhibit B" and incorporated herein by reference.

NOW, THEREFORE, Declarant, by this Declaration, does declare that all property described herein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall run with the real property described herein and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE 1

DEFINITIONS

Section 1.1. "Additional Property" shall mean and refer to any additional real estate contiguous or adjacent to the Property, shown on the map recorded in Map Book 8 page 8, all or a portion of which may be made subject to the terms of the Declaration in accordance with the provisions of Section 2.2 of this Declaration.

Section 1.2. "Architectural Changes Committee" shall have the meaning set forth in Section 9.10 hereof.

Section 1.3. "Architectural Control Committee" shall mean and refer to the committee appointed by the Board to oversee the development and enforcement of architectural control standards and restrictions with response to the Development and to perform certain other functions described in this Declaration.

Section 1.4. "Architectural and Lake Buffer Guidelines" shall have the meaning as set forth in Section 9.3 hereof.

Section 1.5. "Articles of incorporation" shall mean and refer to the Articles of Incorporation for the Association substantially in the form attached hereto as Exhibit "A" and incorporated herein by reference.

Section 1.6. "Association" shall mean and refer to BEAR CLIFF OWNERS

ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns.

Section 1.7. "Board of Directors" shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.

Section 1.8. "Boat-slip(s)" shall mean and refer to waterfront lots(1-19) and lake view lots (1-8) boat slips over the water of Lake James.

Section 1.9. "Buffer Area" shall mean the area on the residential Water Front and Lake View lots

Section 1.10. "Bylaws" shall mean and refer to the Bylaws for the Association substantially in the form attached hereto as Exhibit "B" and incorporated herein by reference.

Section 1.11. "Access Area(s)" shall mean and refer to the Entrance Monument, Street Lights, and Roads. The Access Areas shall be maintained by the Association (except as otherwise provided in this Declaration) for the common use, benefit and enjoyment of the Owners. The listing and description of the components of the Access Area is illustrative of Declarant's present plans only and is not a guaranty by the Declarant or the Association that all or any part of such components will be installed by the Declarant or the Association at any future time. The Declarant reserves the right, but not the obligation, to provide additional Access Areas within the Subdivision and to designate which Owners shall be permitted to use any Access Areas as set forth in this Declaration.

Section 1.12. "Commons Area" shall mean as refer to that property located in the Lake View map section.

Section 1.13. "Contour Line" shall mean the common boundary of the property and the Lake, and the Contour Line shall not change as a result of erosion or stabilization measures occurring following the conveyance of the property to Lot owners.

Section 1.14. "Declarant" shall mean and refer to Black Bear Development, Inc. and such of its successors and assigns to whom the rights of Declarant hereunder are transferred by written instrument recorded in the McDowell County Public Registry.

Section 1.15. "Development" shall mean and refer to BEAR CLIFF, a single-family residential development proposed to be developed on the Property by Declarant.

Section 1.16. "Duke Energy" shall mean Duke Energy Corporation (or its successor, with respect to ownership and/or management authority over the Lake, if applicable).

Section 1.17. "Entrance Monument" shall mean and refer to the easement area

reserved and granted by Declarant over the parcels designated as "Access Area" and the stone monument and entrance sign which may be located on such easements, together with lighting, an irrigation system, landscaping, and other improvements which may be constructed on such easement area, to be used as an entryway for the Subdivision, and for the purposes set forth in Section 8.9.

Section 1.18. "Guidelines" shall mean and refer to the Architectural and Lake Buffer Guidelines.

Section 1.19. "Improvement" shall have the same meaning as set forth in Section 9.4.

Section 1.20. "Interior Lots" shall mean and refer to those lots (Phase II) in the development which may have the option to annually lease a boat slip at Black Bear Marina, Inc.

Section 1.21. "Lake View Lot" shall mean lake view lots #1-8.

Section 1.22. "Lake View Lot Buffer Area" shall mean any portion of the are that is located within the one hundred forty (140) to one hundred seventy-five (175) feet of the Contour Line of the Lot and the Lake as shown on said plat.

Section 1.23. "Lake Buffer Area" shall have the same meaning as set forth in the Architectural and Lake Buffer Guidelines.

Section 1.24. "Lake Buffer Guidelines" shall have the same meaning as set forth in the Architectural and Lake Buffer Guidelines.

Section 1.25. "Lot(s)" shall mean and refer to the separately numbered or single family lots or future development depicted on the Map, which Lots do not include the Access Areas as described in this Declaration.

Section 1.26. "Map" shall mean and refer to: (I) the map of Bear Cliff Subdivision recorded in Map Book 9, Page(s) 15 and Map Book 9, Page(s) 16 in the McDowell County Public Registry, North Carolina: (II) any maps of any portions of the Additional Property which are subjected to this Declaration: (III) any revisions of such map or maps recorded in the McDowell County Public Registry.

Section 1.27. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 1.28. "Mortgage" shall mean any mortgage or deed of trust constituting a first lien on a Lot.

Section 1.29. "Mortgagee" shall mean the owner and holder of a Mortgage at the time such term is being applied.

Section 1.30. "Owner" shall mean and refer to the record owner(s), whether one or more persons or entities, of fee simple title to any Lot within the Development, including the Declarant if it owns any Lot, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.31. "Pier Zones" shall mean and refer to those areas shown on Exhibit "C" attached hereto and incorporated herein by reference, and designated as "Pier Zone" or "PZ" with corresponding Lot numbers, where Owners of Lots adjoining the waters of Lake James may construct a dock or pier in accordance with Section 8.21 of this Declaration.

Section 1.32. "Community Road Easements" shall mean and refer to the non-exclusive, perpetual easements forty-five (45) feet in width identified on the Map as "Right of Way" and a twenty (20) feet "Right of Way" which goes through waterfront lots 8, 9, and 10 and ten (10) foot "Right of way" which goes through back of waterfront lots 6 and 7 which have been granted to the Owners of Lots fronting Private Roads in the Subdivision (the "Private Road Lots"), their heirs, successors and assigns for access, ingress, egress to and from such Private Road Lots. Notwithstanding the foregoing, Lot Owners fronting both a Private Road and the Community Road shall not be considered a Private Road Lot Owner for purposes of this Declaration and shall be responsible for the maintenance and upkeep of such Private Road. The Private Road Easements have also been reserved unto the Declarant and the Association, their successors and assigns for access, ingress and egress to the Private Road Lots, for the installation of the Private Roads, and for the installation and maintenance of any utilities and drainage facilities.

Section 1.33. "Private Roads" shall mean and refer to those certain private roads to be constructed within the Private Road Easements which will provide access to each of the Private Road Lots upon completion, and will be dedicated to the Owners of the Private Road Lots, all to be maintained by the Owners of the Private Road Lots as addressed in Section 8.25 of this Declaration.

Section 1.34. "Property" shall mean and refer to the property shown on the Map, including the Lots, Access Areas, and Private Roads, together with any leasehold interest or easement which the Association has or may hereafter acquire in any property adjacent to the Development (including, but not limited to, any leases of any submerged land lying within the bed of Lake James).

Section 1.35. "Community Roads" shall mean and refer to all roads and cul-de-sacs in the Subdivision dedicated to the development as shown on the Map, all to be maintained

by the Association.

Section 1.36. "Street Lights" shall mean and refer to those certain streetlights, which may be constructed upon and over the rights-of-way of the Community Roads and the Private Road Easements.

Section 1.37. "Subdivision" shall mean and refer to Bear Cliff Subdivision, as shown on the Map.

Section 1.38. "Water Front Lot" shall mean the residential lots 1-19 located on the Southern and Eastern portion of the property

Section 1.39. "Water Front Lot Buffer Area" shall mean any portion of the residential area that is located within the sixty five (65) feet of the Contour Line of the Eastern portion of the Lots 12-19 and within one hundred (100) feet of the Contour Line of the Southern portion of the Lots 1-11.

ARTICLE 2

PROPERTY TO THE DECLARATION AND WITHIN THE JURISDICTION OF THE ASSOCIATION

Section 2.1. Property. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, and which is and shall be within the jurisdiction of the Association, is located in McDowell County, North Carolina, and is the Property as defined above and as more particularly described and shown on the Map recorded in Map Book 9 page 16 for Water Front Lots and Map Book 9 page 15 for Lake View Lots.

Section 2.2. Additions to the Property

(a) Declarant may cause Additional Property to be made subject to the terms and scheme of this Declaration by filing one or more Supplemental Declarations in the McDowell County Public Registry, containing a description of the Additional Property and a statement by the Declarant of its intent to extend the operation and effect of this Declaration to the Additional Property. Declarant may also cause additional Access Areas, within the development and a statement by Declarant of its intent to extend the operation and effect of this Declaration to the additional Access Areas. Notwithstanding the foregoing, the covenants and restrictions established herein as applied to, or imposed upon, the Additional Property may be altered or modified by the filing of one or more Supplemental Declarations as provided in Subparagraph (b) below.

(a) Any Supplemental Declaration may contain complementary additions to the covenants and restrictions contained herein as may be necessary in the judgment of the Declarant to reflect the different character of the Additional Property. In no event, however, shall any Supplemental Declaration revoke or modify the covenants and restrictions contained herein with respect to the Property, nor revoke or modify the covenants and restrictions established by previously filed Supplemental Declarations, without meeting the requirements for Amendment set forth in this Declaration.

(a) In addition to the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration, Declarant shall have the right, at its election, without the consent of any Owner or Owners, to subject any phase, section or portion of the Property owned by Declarant to additional controls, covenants, conditions, restrictions, easements, development guidelines, charges, and liens, by filing Additional Declaration in the office of the Register of Deeds of McDowell County covering only such phase, section or portion of the Property. Such Additional Declaration may or may not provide for the establishment of a property owners' association to govern the ownership and/or maintenance of the Property affected by and the enforcement of the provisions of such Additional Declaration. Whether or not a property owners' association is formed pursuant to such Additional Declaration, the Association shall have the right and authority to enforce all controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens imposed by such Additional Declaration and any amendments thereto, whether or not such right and authority is expressly provided for in such Additional Declaration.

(a) Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that, so long as Declarant owns any part of the Property, the prior written consent of Declarant shall be required for any parties to modify, change and/or amend, in whole or in part, the terms and provisions of this Declaration, any Supplemental Declaration and/or any Additional Declaration or to impose new or additional covenants, conditions, restrictions or easements on any part of the Property.

ARTICLE 3

PROPERTY RIGHTS

Section 3.1. Ownership of Access Areas. Declarant shall maintain ownership of Access Areas and convey maintenance to the Association. The Declarant reserves the right to construct: (I) Pathways (II) the Entrance Monument to be located at the entrance to the Development; (III) the Community Roads; as reflected on the Map, for the use and enjoyment of the Owners who are entitled to the use of such Access Areas as provided in this Declaration. Notwithstanding the recordation of any Map or any other action

by Declarant or the Association, all Access Areas and the Community Roads shall remain for the sole benefit and use of the Owners in the Development in this Declaration, which Private Road Easements are not Access Areas.

Section 3.2. Owners' Rights to Use and Enjoy Access Areas and the Community Roads. Each Owner shall have the non-exclusive easement and right to use and enjoy the Access Areas, and such right shall be appurtenant to and conveyed with title to such Owner's Lot, subject to the following:

- (a) the right of the Association to promulgate and enforce reasonable regulations governing the use of the Access Areas to insure the availability of the right to use the Access Area the Owners and the safety of all Owners on the Access Areas;
- (a) the right of the Association to suspend the voting rights of an Owner in the Association and the right of the Association to suspend the right to use certain or all of the Access Areas by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (a) the right of the Declarant or the Association to grant utility, drainage, and other easements across the Access Areas;
- (a) the right of the Declarant or the Association to restrict the use of certain Access Areas to certain designated Owners as shall be described in this Declaration, including, but not limited to, and the right to restrict use of the Community Road Easements (which may be used only by the Declarant, the Association, and the Private Road Lot Owners);
- (a) the provisions of Section 4.6
- (a) the provisions of Article 8 of the Declaration.

Section 3.3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, the Owner's right of enjoyment to certain Access Areas and facilities located thereon to the members of the Owner's family, guests or invitees.

Section 3.4. Rights in the Community Roads and Private Roads. Each Private Road Lot Owner, the Declarant and the Association, their successors and assigns, shall have and are hereby granted the perpetual, non-exclusive right to use the Community Roads within the Community Road Easements for the purpose of pedestrian and vehicular

access, ingress, egress, and regress to and from each Private Road Lot and the Access Areas, and for the purpose of installation and maintenance of drainage facilities and other utilities facilities to serve the Private Road Lots. Each Owner, the Declarant and the Association shall further have and are hereby granted a perpetual, non-exclusive right, in common with the general public, to use the Community Roads for the purpose of providing access to and from each Lot and the Access Areas.

ARTICLE 4

THE ASSOCIATION

Section 4.1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and shall be governed by the Bylaws.

Section 4.2. Classes of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights:

- (a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote for each Class A Lot owned. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.
- (a) Class B Lots. Class B Lots shall be all owned by Declarant which have not been conveyed to purchasers who are affiliated with the Declarant. The Declarant shall be entitled to four (4) votes for each Class B Lot owned by it.

Section 4.3. Relinquishment of Control. The Class B membership shall cease and be converted to Class A membership on the happening of one of the following events, whichever occurs earlier:

- (a) when the number of votes in the Class A membership held by Owners occupying homes in the Subdivision equals the total number of votes outstanding in the Class B membership and

the Declarant surrenders its rights to annex any Additional Property to the Property pursuant to the Declaration and the Bylaws; or

- (a) Declarant, in its sole discretion, elects to convert the Class B Lots to Class A Lots. Any such election, to be effective, must be in writing and recorded in the McDowell County Public Registry.

Section 4.4. Availability of Documents. The Association shall maintain current copies of the Declaration, the Bylaws and other rules concerning the Development as well as its own books, records, and financial statements which shall be available for inspection by all Owners, Mortgagees, and insurers and guarantors of Mortgages that are secured by Lots. All such documents shall be available upon reasonable notice and during normal business hours. In addition, any Mortgagee may, at its own expense, have audited statement prepared with respect to the finances of the Association.

Section 4.5. Management Contracts. The Association is authorized and empowered to engage the services of any person, firm, or corporation to act as managing agent of the Association at a compensation level to be established by the Board of Directors and to perform all of the powers and duties of the Association. Provided, however, that the term of any such agreement with a managing agent shall not exceed one (1) year and shall only be renewed by agreement of the parties for successive one (1) year terms. Any such contract shall be terminable by the Association with or without cause upon ninety (90) days prior written notice to the manager without payment of a termination fee.

Section 4.6. Maintenance. The Access Areas together with all utilities, easements located within the Access Areas and not otherwise maintained by public entities or utilities, shall be maintained by the Declarant until completion, at which time the Association shall activate the collection of the initial Annual Assessment from each Owner for such maintenance of the Access Areas. Thereafter maintenance of the Community Roads shall be the sole responsibility of the Association. Provided, however, Declarant here by reserves the right and easement, but not the obligation to go upon any portion of the Access Areas and Community Roads at any time in order to repair and maintain such Access Areas and Community Roads where needed in Declarant's sole discretion to bring such Access Areas and Community Roads within the standards required by Declarant Should Declarant so go upon the Access Areas or Community Roads to perform maintenance and repairs for such purpose, the Association hereby agrees to reimburse Declarant in full for the cost of such maintenance and repairs to the Access Areas, upon receipt of a statement for such cost from Declarant. Furthermore, should the Declarant perform maintenance and repairs to the Community Roads, each Private Road Lot Owner shall be obligated to the Declarant for his or her share of all related costs of such maintenance and repairs incurred by Declarant.

The Access Areas and Community Roads shall be maintained as more particularly described below:

A Maintenance of the Entrance Monument shall include maintenance, repair, replacement, and reconstruction, when necessary, of the stone monument or monuments, signage, irrigation, planters, and lighting located thereon and providing and paying for landscaping, utility charges for irrigation and lighting of the stone monument or monuments and signage located thereon (if any).

B All Access Areas (and all improvements located thereon) shall be clean and free from debris and maintained in an orderly condition, together with the landscaping thereon (if any) in accordance with the highest standards for private parks, including any removal, repair, reconstruction, and replacement of any landscaping, utilities, or improvements located thereon.

C Except as provided in the Declaration, the Community Roads shall be maintained by the Association prior to acceptance by the applicable public authority for such maintenance, provided that the Declaration, in its sole discretion, has the right but not the obligation, to reimburse the Association for maintenance cost. Such maintenance shall include repair, replacement, and reconstruction, when necessary. Maintenance of the Community Roads shall conform to the standard of maintenance (if one is ascertainable) which would be required by the North Carolina Department of Transportation or any other governmental entity before it would accept such Public Roads for maintenance.

D The Community Roads located within the Community Roads ~~Estates~~ which will serve the Private Roads Lots shall be maintained by the Association. Such maintenance shall include cleaning, maintaining, repairing, reconstructing, and replacing (if destroyed), when necessary, the Community Roads, and such maintenance practices shall conform to the same standards of maintenance which would be required by the North Carolina Department of Transportation or other governmental entity for that of public roads.

E The Association shall not be responsible for the maintenance of any Lot or any portion of any Lot or the operation and maintenance of any improvements within the boundaries thereof. The Owners of such Lots shall be responsible for same.

Section 4.7 Reserve Fund. The Association shall establish and maintain an adequate reserve fund (the "Reserve Fund") for the periodic maintenance, repair, reconstruction, and replacement of the Access Areas and any improvements located on such Access Areas (including, but not limited to the Community Roads) which the Association is obligated to

maintain in order to fund unanticipated expenses of the Association or to acquire equipment or services deemed necessary or desirable by the Board of Directors. Such reserve fund shall be collected and maintained out of the Annual Assessment.

Section 4.8 Community Roads. Declarant shall have the exclusive rights to construct the Community Roads within the Community Road Easements in the approximate locations shown on the Maps, as well as any additional Community Roads which may be added to the Development in the future pursuant to the provisions of this Declaration. The Community Roads and the Community Road Easements, as shown on the Map, shall be maintained and repaired by the Association. No structures, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the Community Roads or other utilities or drainage facilities located therein.

Section 4.9 Liability Limitations. Neither Declarant, nor any Association Member, nor the Board, nor any officers, directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Association Member, whether or not such other Association Member was acting on behalf of the Association or otherwise. Neither Declarant, nor the Association, nor their directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Association or any person firm or association making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof. The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

ARTICLE 5

COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS

Section 5.1 Creation of the Lien and Personal Obligations for Annual, Supplemental Annual, Special, and Special Individual Assessments. Declarant for each Lot

owned within the Property, hereby covenants, and each owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the Annual Assessments, Supplemental Annual Assessments, Special Assessments, and Special Individual Assessments, as hereinafter defined, established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 5.2 Purpose of the Annual Assessment. The assessment to be levied annually by the Association against each Lot (the "Annual Assessment") shall be used as follows:

- A. to repair, maintain, reconstruct (when necessary), keep clean and free from debris, the Access Areas and improvement located thereon, including, but not limited to, the Entrance Monuments, Community Roads and any improvements associated therewith, and to maintain the landscaping thereon in accordance with the highest standards for private parks, including any necessary removal or replacement of landscaping.
- B. to maintain and repair or caused to be maintained the Community Roads to the standards of maintenance (if one is ascertainable) which would be required by the North Carolina Department of Transportation or other governmental entity before it would accept such Public Roads for maintenance, as more particularly set forth in Article 4;
- C. to pay all costs associated with the lease of the Street Lights, including but not limited to, monthly lease payments and utility costs;
- D. to pay all ad valorem taxes levied against the Access Areas and any other property maintained by the Association
- E. to pay premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws.
- F. to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws.
- G. to maintain contingency reserves as to the amounts described in

subsections (a) and (b) above for the purposes set forth in Section 4.7 hereof in amounts as determined by the Board of Directors.

Section 5.3. Payment of Annual Assessment: Due Dates. The Annual Assessment provided for herein shall commence as to each Lot on 07/01/2004. The Annual Assessment for the fiscal year beginning 07/2004, shall be Two Hundred Fifty and No/100s Dollars (\$250.00) per Lot, which amount shall be due and payable in advance no later than _____ of the year in which such Annual Assessment is due and pro-rated on a calendar year basis. . The Annual Assessment for each and every year beginning January 1 thereafter shall be in an amount as set by the Board of Directors, and shall be due and payable in one (1) annual installment, such installment being due and payable no later than January 31 of each such year. The Board of Directors shall fix the amount of the Annual Assessment as to each Lot for any calendar year at least thirty (30) days prior to January 1 of such calendar year, and the Association shall send written notice of the amount of the Annual Assessment, as well as the amount of the first installment due, to each Owner on or before January 1 of such calendar year. The failure of the Association to send, or of an Owner to receive, such notice shall not relieve any Owner of its obligations to pay the Annual Assessment. Notwithstanding the foregoing, the Board of Directors may alter the dates of the fiscal year for setting the Annual Assessment and may increase or decrease the frequency of collection of Annual Assessment installments in any reasonable manner.

Section 5.4. Maximum Annual Assessment.

a For years following the first year of the Annual Assessment and thereafter, the Board of Directors, by a vote in accordance with the Bylaws, without a vote of the Members, may increase the Annual Assessment each year by a maximum amount to equal to the previous year's Annual Assessment times the greater of (i) ten percent (10%), or (ii) the annual percentage increase in the Consumer Price Index, All Urban Consumers, United States. All Items (1982 - 84 = 100) (hereinafter "CPI") issued by the U.S. Bureau of Labor Statistics for the most recent 12-month period for which the CPI is available. If the CPI is discontinued, then there shall be used the index most similar to the CPI which is published by the United States Government indicating change in the cost of living. If the Annual Assessment is not increased by the maximum amount permitted under the terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the Annual Assessment may be increased by that amount in a future year, by a vote of the Board of Directors, without a vote of the Members.

b From and after the first year of the Annual Assessment, the maximum annual assessment may be increased above the maximum amount set forth in subparagraph (a) of this Section 5.4 by a vote of no less than two-thirds (2/3) of the eligible Members who are voting in person or by proxy, at the annual meeting or at a meeting duly called for this purpose, in accordance with the Bylaws.

c The Board of Directors may fix the Annual Assessment at an amount not in excess of the maximum set forth in subparagraph (a) of this Section 5.4 (the "Maximum Annual Assessment"). If the Board of Directors shall levy less than the Maximum Annual Assessment for any calendar year and thereafter, during such calendar year, determine that the important and essential functions of the Association cannot be funded by such lesser assessment, the Board of Directors may, without a vote of the Members, but in accordance with the Bylaws, levy a supplemental Annual Assessment ("Supplemental Annual Assessment"). In no event shall the sum of the Annual Assessment and Supplemental Annual Assessment for any year exceed the applicable Maximum Annual Assessment for such year.

Section 5.5. Special Assessment for Capital Improvements. In addition to the Annual Assessment authorized above, the Association may levy, in any assessment year, a special assessment ("Special Assessment") the applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) the construction of any Access Area improvements which are not originally constructed by Declarant; or (ii) the reconstruction, repair or replacement of Access Areas, Community Roads, Street Lights or Entrance Monuments and any additional Access Areas which may be constructed including all improvements located thereon, and including fixtures and personal property related thereto. Provided, however, that any such assessment must be approved by a vote of no less than two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.6 Special Individual Assessment. In addition to the Annual Assessments, Supplemental Assessments and Special Assessments authorized above, the Board of Directors shall have the power to levy a special assessment applicable to any particular Lot owner ("Special Individual Assessment"): (i) for the purpose of paying for the cost of any construction, reconstruction, repair or replacement of any damaged component of the Community Roads and Access Areas, including, but not limited to, Entrance Monument, Street Lights, including all improvements located thereon, whether occasioned by any act or omission of such Owner(s), members of such Owner's family, or such Owner's agents, guests, employees or invitees and not the result of any ordinary wear and tear; or (ii) for payment of fines, penalties or other charges imposed against any particular Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws or any rules or regulations promulgated by the Association or the Declarant pursuant to this Declaration or the Bylaws. Provided, however, that Declarant shall not be obligated to pay any Special Individual Assessment except with Declarant's prior written approval. The due date of any Special Individual Assessment levied pursuant to the Section 5.6 shall be fixed in the Board of Directors resolution authorizing such Special Individual Assessment. Upon the establishment of a Special individual Assessment, the Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Owner(s) at least thirty (30) days prior to the date such Special Individual

Assessment is due.

Section 5.7. Assessment Rate.

A Subject to the exception set forth in subsection (b) below, the Annual, Supplemental Annual, and Special Assessments must be fixed at a uniform rate for all Lots.

B Annual, Supplemental Annual, and Special Assessments for each Lot owned by Declarant and unoccupied as a residence shall be one-third (1/3) of the Annual, Supplemental Annual, and Special Assessments for each other Lot in the Subdivision not owned by Declarant.

ARTICLE 6

COVENANT FOR LAKE VIEW
BOAT-SLIP AND LEASE PAYMENT

Section 6.1. Boat Slip. Subject to and contingent upon the approval of Duke Energy Corporation and any other regulatory body having jurisdiction, Declarant shall have the exclusive right to construct the Lake View Boat Slip in the approximate location shown on the Map as Lake View Lot Boat Slip. The Boat Slip can not be covered at time of construction or in the future. Following the Construction of the Lake View Boat Slip as set forth above, the Boat Slip shall be owned, maintained, (of which taxes, insurance and other incurred expenses) are paid by the Owners of Lake View Lots.

Section 6.2. Purpose of boat slip Lease Payment. Lease payments payable to Duke Energy Corporation for the lease of the lake bed on which the slip is located. This lease payment is due annually by the owners of the View Boat Slip Owners.

HAA owner of adjacent property

Section 6.3. Maintenance of Boat Slip. Lake View Lot Owners (Lots 1-8) are solely responsible for maintenance and upkeep of the Boat Slip.

Section 6.4. Use of Lake View Boat Slip. The Lake View Boat Slip is solely for the use of the owners, each having their own designated slip numbered per Lake View Lot ownership. If any damages, violations, unauthorized use, of the Boat Slip occurs the owners will meet as a group to resolve any disputes or expenses that may arise. Any individual owner, members of the owner's family, guest or invitee of the owner, that causes damages to the Boat Slip will solely incur the expense of repair to the Boat Slip.

ARTICLE 7

GENERAL ASSESSMENT PROVISIONS

Section 7.1. Certificate Regarding Assessments. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 7.2. Effect of Nonpayment of Assessments; Remedies of the Association. Any Annual Assessment, Special Assessment, Special Individual Assessment, Supplemental Annual Assessment (or installment thereof) not paid by its due date as set forth in Section 5.3 hereof, or any other assessment not paid by its due date, shall bear interest from such due date at the rate of eighteen percent (18%) per annum or the highest rate then permitted by law, whichever is less. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner or foreclose the lien against the Lot and the right to use the Access Areas and/or the right to if applicable, and interest, late payment charges, costs and reasonable attorney's fees related to such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Access Areas or by abandoning his Lot.

Section 7.3. Subordination of the Lien to Mortgages. The lien of the assessments provided for in Articles 5 of this Declaration shall be subordinate to the lien of any first Mortgage on a Lot or any mortgage or deed of deed of trust to the Declarant. Sale or transfer of any lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to mortgage foreclosure, or any proceeding in lien thereof, however, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Provided, however, that the Board of Directors may in its sole discretion determine such unpaid assessments to be an Annual Assessment, Special Assessment, Supplemental Annual Assessment, collectable pro rata from Owners including the foreclosure sale purchaser. Such pro rata portions are payable by all owners notwithstanding the fact that such pro rata portions may cause the Annual Assessment, Special Assessment, Special Individual Assessment, Supplemental Annual Assessment, No sale or transfer shall relieve the purchases of such lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

ARTICLE 8

DEED RESTRICTIONS

These restrictions are for Phase I of Bear Cliff Development.

Section 8.1 Land Use, Building Type and Residential Restrictions. All Lots in the Subdivision shall be known and described as residential lots and shall be used only for private residential and recreational purposes. The Residential Lots shall be used only for detached single family residence purposes, together with the accessory buildings and structures permitted pursuant to the below sections. No more than one detached single family residential dwelling can be constructed on any one lot within the residential area.

No condominium, townhouse, duplex, apartment or other multi-family residential uses are permitted in the Subdivision.

No camper, trailer, motor home, boat, recreational vehicle, or similar habitable or transportable unit or structure shall be allowed to remain on or adjacent to the property as a place of residence.

Raising, breeding, or keeping of animals, livestock or poultry of any kind are prohibited in the Subdivision, provided, however, that dogs, cats, or other usual and common household pets (which are registered, licensed and inoculated as required by law) are permitted on the property .

No activity that violates local, state, or federal laws or regulations is permitted on the property.

No boats are permitted on or adjacent to the property unless such boats comply with all federal, state and local licensing and certification regulations.

Institutional uses, including but not limited to group homes, day care center, churches, temples or shrines, rest homes, schools, medical care facilities, lodges, inns, beds and breakfasts are prohibited on the property.

An owner or occupant residing on a Lot within the Subdivision may conduct business activities within a dwelling on such Lot as long as (1) existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the dwelling unit, (2) the business activity conforms to all zoning requirements (3) the business activity does not involve regular visitation of such Lot by clients, customers, suppliers or other business invitees, (4) the business activity does not involve any service or delivery business in which more than one vehicle used in such business would be parked overnight on such Lot, or which any parts, equipment supplies, raw material, components or tools are stored on such Lot. And

(50 the business activity is consistent with the residential character of such Lots and does not constitute an unreasonable disturbance to adjoining land owners or others, an nuisance, or a hazardous or offensive use. The foregoing shall not preclude occasional garage sales, moving sales, rummage sales, or similar activities provided that such activities are not held on such Lot more than once in any six month period. The leasing of any such Lot for single family residential use shall not be considered a business or trade within the meaning of the subsection. The terms "business" and "trade" as used in this provision, shall be construed to have their ordinary , generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the providers receives a fee, compensation or other form of consideration, regardless of whether: (1) such activity is engaged in full or part-time (2) such activity is intended to or does generate a profit, or (3) a license is required.

Docks, piers and boathouses shall be subject to approval by Duke Energy Corporation and/or any governmental entity having jurisdiction prior to the start of construction of, and/or (as the case may be) before using such improvements.

Section 8.2. Dwelling Size. As used herein, "Heated Living Area " excludes basement areas (defined as any level in which at least one perimeter wall is below, or partially below, grade), unless such basement areas have two or more perimeter walls above surrounding grade, and such basement areas are fully heated and air-conditioned and constructed to a quality equal to the above grade levels of the dwelling. In addition, Heated Living Area excluded vaulted ceilings areas, attics, unheated porches, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios. The term "Story" shall mean a finished horizontal division of Heated Living Area extending from the floor of such division to the ceiling above it. The term "Half Story" shall mean a story which contains fifty percent (50%) or less Heated Living Area than the story in the dwelling containing the most Heated Living Area.

The square footage requirements hereinafter set forth are enclosed heated floor area and are exclusive of the area in unfinished basements, unheated porches of any type, attached or detached garages, carports, and unheated storage areas, decks or patios.

A For Waterfront Lots: No dwellings constructed on the waterfront lots may contain more than two and a half stories with no less than one thousand eight hundred fifty (1,850) square feet for one story, one thousand nine hundred fifty (1,950) for one and one half (1 ½) story and two thousand two hundred (2,200) for two (2) story of heated living area.

B For Lake View Lots: No dwelling may contain more than one and

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a half stories or contain more than two thousand five hundred (2,500) square feet of heated Living Area.

Section 8.3. Building Construction and Quality. All buildings erected upon any Lot shall be constructed of new material of good grade, quality and appearance and shall be constructed in a proper, workmanship manner.

- A All dwellings, buildings, and accessory structures shall be darker, muted colors that blend with the natural features of the environment. The structures may be stone covered block, composite vinyl material or stucco covered foundation (synthetic stucco is not permitted), wood, lot or brick. Any horizontal siding (including log siding must be completely supported to maintain a straight and even outer surface must be completely and properly finished. Brick colors have to be prior approved by the Architectural Control Committee.
- B The exterior surface of any building shall not be of asbestos shingle Siding, imitation brick or stone roll siding, or exposed concrete or cement blocks. The exterior surface of any garage, outbuilding or appurtenant surface or building erected on or located on any Lot shall be architecturally compatible with, and of material and construction comparable in cost and design to, the exterior surface of the dwelling located on said Lot. All buildings shall have roofs (with the exception of dormers, porches, bay windows and other minor architectural details) of not less than 6 in 12 pitch and not less than 12 inch overhang, covered with slate, cedar shakes, tile, asphalt or fiberglass shingles, terra cotta tile, copper sheathing, wood shingles or pre-painted metal roofing.
- C Structures, equipment or other items which are visible from any road Adjacent property which have become rusty, dilapidated, or otherwise Fallen into disrepair are prohibited.

Section 8.4. Permitted Accessory Structures, Residential Lots. No buildings, structures or improvements of any kind may be located on any lot other than one detached, single-family residential home, and the following permitted accessory structures:

- A. Storage and shop outbuildings, including detached garages, workshops, storage and utility buildings, greenhouses and similar buildings, not exceeding the height of the roof of the residence on the Lot. On any lot, the total square footage contained within all such outbuildings combined shall not exceed two thousand (2000) square feet. All outbuildings shall be permanently affixed to the Lot and shall be covered with the approved exterior materials described above. Further, no outbuildings shall be located wholly or partially within the Buffer Area.

Recreational structures, including decking, gazebos, covered patios, playhouses, barbecue pits and similar structures. On any Lot, the total square footage contained within such structures when combined shall not exceed one thousand (1200) square feet in area. Further, no such structures (other than gazebos and covered patios) shall be located wholly or partially within any Buffer Area. Gazebos and covered patios may be located wholly or partially within the Buffer Area; provided, however, that on any Lot, no more than an aggregate of one hundred and fifty (150) square feet of such structures (and any structures permitted) shall be located within the Buffer Area.

Section 8.5. Temporary Structure Materials. No residence or building of a temporary nature shall be erected or allowed to remain on any Lot, and no metal, fiberglass, plastic, vinyl, or canvas tent, barn, carport garage, utility building, storage building, or other metal, fiberglass, plastic, vinyl or canvas structure shall be placed or erected on any Lot or attached to any residence. Provided, however, that nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto Lots owned by Declarant, to be used for storage or for construction or sales offices.

Section 8.6. Building Setback Lines. No building on any Lot (including any stoops, porches, or decks) shall be erected or permitted to remain within the front street right-of-way or side abutting right-of-way (for a corner Lot) building setback lines. Notwithstanding any rear setback restrictions, no building, including stoops, porches or decks (whether attached or unattached), shall be erected or permitted to remain nearer than sixty-five (65) feet to the rear (waterside) lot line of any Lot adjoining the waters of Lake James. For purposes of this restriction, the waterside lot line shall mean the contour line of Lake James as noted on the Map. Boathouses, piers, and dock facilities are exempt from the rear setback restrictions provided they comply with the provisions set forth in Section 8.21.

In the event any zoning or subdivision ordinance, floodway regulations or other ordinance, law or regulation applicable to a Lot shall prescribe greater setbacks, than all buildings erected during the pendency of that zoning or subdivision ordinance, floodway regulations or other ordinance, law or regulation shall conform to said requirements. No masonry mailboxes or other structures or improvements may be constructed or placed within the right-of-way of any of the Community Roads. Declarant hereby reserves the right and easement, benefitting Declarant and the Association and burdening the Property, to go upon any Lot or other portion of the Property in order to remove any mailboxes or other structures or improvements constructed within the right-of-way of any Community Road. Should Declarant or the Association exercise its easement rights pursuant to the terms of this Section 8 the Owner of the nonconforming Lot shall reimburse Declarant of the Association (as applicable) within five (5) business days following the submission of an invoice for any costs or expenses incurred by Declarant or the Association. The exercise or nonexercise of the easement rights contained in this Section 8 shall be subject to the discretion of the Declarant and the Association and neither Declarant nor the Association shall have the obligation to

exercise such rights.

The Association shall have the authority but not the obligation, in its sole discretion, to assess penalties against an Owner who fails to abide by the terms of this Section 8. The penalties authorized by this Section 8 as well as the expenses to be reimbursed Declarant or the Association shall be considered a Special Assessment against the respective Owner's Lot, entitling the Association to the assessment collection remedies specified in Article 7 of this Declaration.

Section 8.7. Minor Setback Violations. In the event of the unintentional violation of any of the building setback covenants set forth above, in the amount of ten percent (10%) or less of the setback covenant in question. Declarant reserves the right, which shall be vested in and may be exercised by the Association after Declarant's Class B Membership in the Association has converted to Class A Membership, but is not obligated, to waive in writing such violation of the setback covenants upon agreement of the Owner of the Lot upon which the violation occurs and the Owner of any Lot adjoining the violated setback, provided that such change is not in violation of any zoning or subdivision ordinance or other applicable law or regulation, or, if in violation, provided that a variance or other similar approval has been received from the appropriate governmental authority.

Section 8.8. Combination or Subdivision of Lots. Except as otherwise set forth herein, no Lot shall be subdivided by sale or otherwise so as to reduce the Lot area shown on the Map. However, a Lot Owner may combine with a portion or all of another contiguous Lot so long as the parcel or parcels which result from such combination do not violate any applicable zoning ordinance or other applicable law or regulation. In the event that two or more Lots are completely combined so as to create one parcel, the resulting parcel shall be considered as one Lot for the purposes of this Article 8, but shall continue to be considered as two Lots for all other purposes (including voting and assessments). Furthermore, the Owner of a Lot which combines with all or a portion of a contiguous Lot shall be solely responsible for any costs which may result from such combination, including the costs of relocating any existing easements. Notwithstanding the foregoing, Declarant reserves the right to change the boundaries or dimensions of any Lots still owned by Declarant as may be needed for any reason and any Lot or Lots which result from such change by Declarant shall not be subject to any additional assessment.

Section 8.9. Utility Easements. Declarant hereby reserves easements for the installation and maintenance of utilities (i.e., electricity, sewer, water, gas, telephone, cable t.v., etc.) and drainage facilities over the front and rear ten (10) feet of each Lot (with the exception of the Lots along the waters of Lake James, which will not have a ten (10) foot easement over the rear of such Lot (i.e., waterside) and five (5) feet in width along each side lot line of each Lot. Additional drainage easements and utility easements are reserved as more particularly shown and delineated on the Map and in other recorded easement documents. Within such easements, no structure, planting or other materials shall be placed

or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may interfere with drainage and the flow of water within the easement areas. The Owner of each Lot shall maintain that portion of the Lot lying within the easement areas as defined herein and shall maintain that improvements located thereon, except those improvements installed and maintained by a public authority over any unsold Lot or Lots for road drainage, utility and entry signage installation purposes by the recording of appropriate instruments, and such easements shall not be construed to invalidate any of these covenants.

Section 8.10. Entrance Monument Easement. Declarant hereby grants, establishes and reserves, for the benefit of Declarant and the Association, and their successors an assigns, non-exclusive perpetual easements (the "Entrance Monument Easements") for the purpose of landscaping and maintaining the entryway and erecting and maintaining the Entrance Monuments over such portions of the Subdivision identified as "Entrance Monument Easement".

Declarant or the Association shall have the right to enter, landscape, and maintain the Entrance Monument Easements as an entryway to the Subdivision. Further, Declarant or the Association may erect and maintain one or more stone monuments, with an entrance sign thereon (collectively, the "Entrance Sign") bearing the name of the Subdivision and Declarant, which Entrance Signs shall be built to the applicable governmental standards for signs; and may erect and maintain lighting for the Entrance Sign, planters and other improvements typically used for an entryway.

Section 8.11. Fences and Walls. Fences and walls may be constructed of wood or stone. Chain link or other metal fencing is not permitted. A wall constructed of stone or wood and used in lieu of a fence is exempt from the openness test. No fences or walls greater than six (6) feet in height are permitted.

No fence or wall facing the street shall be erected on a Lot nearer the street right-of-way line than the front face of the dwelling located on such Lot, except for split-rail fencing or fencing no higher than 30" in height. In the case of a corner Lot, no side yard fence or wall shall be erected nearer the street right-of-way line than the side dwelling located on such Lot. Provided, however, that the restrictions described in this Section 8 shall not apply to any improvements originally installed by Declarant on any Access Area.

Section 8.12. Signs. No signs of any kind shall be displayed to the public view on any Common Area other than the Entrance Monument as set forth above or approved in writing by the Architectural Control Committee. No signs of any kind may be displayed to the public view on any Lot with the following exceptions which may not exceed five (5) square feet in size: (a) one sign (on the Lot only) advertising the Property for sale or rent; (b) one sign (on the Lot only) used by a builder to advertise the Lot during construction and sales period; and (c) temporary political signs. These restrictions shall

never apply to permanent Entrance Monuments, or to temporary entry signs or advertising by Declarant or "for sale" signs installed by Declarant or its agents prior to the sellout of the Subdivision.

Section 8.13. Antennas: Satellite Dishes or Discs. Except as hereinafter provided, no radio or television transmission or reception towers, antenna, satellite dishes or disc shall be erected or maintained on any Lot. One (1) dish or disc not exceeding one (1) meter in diameter or diagonal measurement for receiving direct broadcast satellite service ("DBS") or multi-point distribution services ("MDS"). No roof mounted antenna, dishes, or discs shall be permitted on any Lot if adequate broadcast reception can be obtained without mounting such equipment is required, no antenna or related structures may be mounted on masts exceeding twelve (12) feet in height above the highest roof line ridge of the house. Any dish, disc, or antenna (with associated mast, if any) shall be reasonably camouflaged and screened from view from Lake James and the Private and Public Roads, and shall not be located in the area between the street right-of-way line and the minimum building setback lines applicable to the Lot.

Section 8.14. Lot Maintenance: Trash Disposal. Each Owner shall keep his Lot in a clean and orderly condition and shall keep the improvements thereon in a suitable state of painting and repair, promptly repairing any damage thereto by fire or other casualty. No cloths line may be erected or maintained on any Lot. No Lot shall be used in whole or in part for storage of trash of any character whatsoever and no trash, rubbish, stored materials or similar unsightly items shall be allowed to remain on any Lot outside of an enclosed structure, except when temporarily placed in closed, sanitary containers pending collection by trash collection authorities or companies.

Section 8.15. Off-Road Parking: Off-Water Boat Storage. Each Lot Owner shall provide a concrete, asphalt or gravel driveway which provides space for parking off the Community Roads and Private Roads prior to the occupancy of any dwelling constructed on the Lot. No vehicle under repair, or wrecked or junked motor vehicle shall be parked upon or permitted to remain on any Lot or any other Access Area. No trailer, motor home, recreational vehicle, camper, or boat shall be used as a residence, either permanently or temporarily, or be parked upon or be permitted to remain on any Lot for a period exceeding 24 hours unless it is parked off the Community Roads and Private Roads and not within the front or side yard setbacks of the Lot. All trucks, trailers, campers, boats, motor homes and recreational vehicles must have a current license plate affixed. All other automobiles must have a current license plate affixed and must be parked on a concrete or asphalt driveway.

Section 8.16. Nuisances. No noxious or offensive trade or activity shall be carried on or upon any Lot or in any residence dwelling or outbuilding, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No substance, thing or material shall be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace and quiet of the

occupants of surrounding property. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot or in any residential dwelling or outbuilding with the exception of dogs, cats, or other household pets which may be kept or maintained provided they are not kept, bred, or maintained for commercial purposes.

Section 8.17. Diligent Construction. All construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed houses or other improvements shall be permitted to exist on any Lot or Access Area, except during such reasonable time period as is necessary for completion. The exterior of all houses and other structures must be completed within one (1) year from the date of commencement of construction, unless a longer time is approved by the Architectural Control Committee and a certificate of occupancy issued within two (2) years after commencement of construction. No construction materials of any kind may be stored within twenty-five (25) feet of any Community Road or Private Road of any Lot. Any damage to any Community Roads, Private Roads, or any part of any Access Area or any utility system caused by an Owner or any builder shall be repaired by such responsible party. If such responsible party fails to repair such damage, Declarant or the Association may make or provide for such repairs, and the responsible Owner shall immediately reimburse the repairing party for its out of pocket expenses in making such repairs. The Owner of each Lot and any builders shall at all times keep contiguous public and private areas free from any dirt, mud, garbage, trash, or other debris which is occasioned by construction of improvements on the Lots, Community Roads, Private Roads and any Access Areas. Declarant or the Association may provide for the cleaning of public and private areas due to the activities of the responsible party and may assess the responsible party a reasonable charge not to exceed the actual cost for such cleaning. All Owners and builders shall, consistent with standard construction practices: (i) keep all portions of the Lots, Community Roads, Private Roads and the Access Areas free of unsightly construction debris; and (ii) shall at all times during construction either provide dumpsters for the containment of garbage, trash, or other debris which is occasioned by construction of improvements on a Lot or Access Areas, or take other measures consistent with standard construction practices necessary to keep the Lot, Community Roads, Private Roads and all Access Areas free of such garbage, trash, or other debris. Each Owner and any Owner's builder shall be responsible for erosion control protection during any earth-disturbing operation, as described and defined in the "Erosion Control Practices" incorporated herein by reference.

Section 8.18. Site Development Requirements. The property shall be subject to the following specific development requirements.

A) No clear cutting of trees on any Lot will be allowed. Trees may be cleared for home and other structures. If certain tree(s) are in question, the Lot owner should contact the Architectural Control Committee prior to the cutting of any tree(s) or vegetation. The purpose of this requirement is to keep the community natural and environmentally friendly.

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B) No portion (or portions of the Property greater than two thousand (2000) Square feet shall be: (i) denuded of ground cover of topsoil, (ii) grades, (iii) excavated or (iv) covered with earth or other natural or man-made fill material, unless all required Building, grading and erosion control permits have been issued by the applicable municipal authorities.

C) All denuded, graded, excavated or filled areas shall be stabilized and replanted on or before: (i) the thirtieth (30th) day following the initial denuding, grading, excavation, or filling (unless footings and foundations are being installed upon the disturbed area and construction is being diligently and continuously pursued upon such Area); or (ii) such time as construction is completed or interrupted for a period of thirty (30) continuous days. In addition to, or in the absence of local or state government regulation on such land disturbance, none of the activities described in (i) through (iv) above shall be allowed to commence without compliance with the following requirements:

(1) The surveying and flagging of the Buffer Area and any portion of the Buffer area that may be disturbed as a result of any activities permitted hereunder; the buffer Area and disturbed areas shall be clearly and distinctly flagged, staked or otherwise designated in order to prevent the unintentional violation of these restrictions by parties performing work upon the property.

(2) With respect to the Water Front Tract, the flagging of all trees in the Water Front Tract Southern Buffer Area that equal or exceed five (5) inches in diameter, as measured four and one-half feet (4.5') from the base of each tree. The trees shall be clearly and distinctly flagged, staked, or otherwise designated in order to prevent the unintentional violation of these restrictions by parties performing work upon the Water Front Residential Tract; and

(3) The proper installation (in accordance with manufacture's instructions) of construction silt fencing on the lower perimeters of all areas within the Property to be disturbed, and any other areas which may be impacted by silt run off from any disturbed areas located on the property.

D) Except as specifically set forth below, no trails or access corridors may be created within the Buffer area for any purpose, including for the installation of boat slips, docks, piers, and similar structures and / or shoreline stabilization; it being the intent of Grantor and Grantee that to the extent such boat slips, docks piers, and similar structures and / or shoreline stabilization can not be installed using the trails and access corridors permitted then such boat slips, docks, piers and similar structures and / or shoreline stabilization shall be installed by barge.

Section 8.19. Buffer Area Restrictions.

Lake View Lots: No portion of the Lake View Buffer Area may be disturbed in any way,

including any disturbance or removal of topsoil, trees and other natural growth. If any portion of the Lake View Buffer Area is destroyed (i.e. by fire or insect infestation), then such portion shall be permitted to regenerate naturally and, notwithstanding anything contained herein to the contrary, during such period of regeneration, any disturbance of such portion of the Lake View Buffer Area is prohibited. No Lot on which any improvements are constructed (other than the trails described below) shall be permitted to contain any portion of Lake View Buffer Area. Notwithstanding the first sentence of this section, the following activities are permitted within the Lake View Buffer Area:

Trails may be created within the Buffer Area for the purpose of providing lake access to use water access structures (such as docks) that have been approved in advance by Duke Energy and otherwise comply with the above. No trail may exceed six (6) feet in width. Trees any be removed for the purpose of creating the trails and grading or ground disturbance (which otherwise complies with the restrictions set forth herein) may be performed if reasonably necessary to create the trails for the purposes described above in this sections. Any tree removal shall be performed using hand held gas or electric chain saws and/or manual handsaws. No other mechanical equipment or vehicles may be used in removing any trees. No shoreline stabilization is permitted with the Lake View Buffer Area.

Following the completion of construction of a residence on a Lake View Lot (as evidenced by a certificate of occupancy for such residence issued by the applicable governmental authority), the pruning and trimming of trees is permitted for the purpose of establishing view corridors: provided, however, that such pruning and trimming may be performed on no more that one-half of the total height of the tree. All pruning and trimming shall be performed using handheld gas or electric chain saws and/or manual handsaws. No other mechanical equipment or vehicles may be used in performing any pruning or trimming.

Waterfront Lots: No portion of the Waterfront Buffer Area may be disturbed in any way, including any disturbance or removal of topsoil, trees and other natural growth. If any portion of the Buffer Area is destroyed (i.e. by fire or insect infestation), then such portion shall be permitted to regenerate naturally and, notwithstanding anything contained herein to the contrary, during such period of regeneration, any disturbance of such portion of the Buffer Area is prohibited. Notwithstanding the first sentence in this section, the following activities are permitted within the Waterfront Buffer Area:

Trails may be created within the Buffer Area for the purpose of providing lake access to use water access structures (such as docks) that have been approved in advance by Duke Energy and otherwise comply with the above. No trail may exceed six (6) feet in width and no more than one (1) trail may be constructed per Lot within the Buffer Area. Trees may be removed for the purpose of creating the trails and grading or ground disturbance (which otherwise complies with the restrictions set forth herein) may be performed if reasonably necessary to create the trails fort the purposes described above. Any tree removal shall be performed using hand held gas or electric chain saws and/or manual handsaws. No other mechanical

equipment or vehicles may be used in removing any trees.

Nuisance shrubs (such as poison ivy and kudzu) may be removed using hand held devices; and other natural plant growth (for example, mountain laurel and rhododendron) may be trimmed down to no less than six feet (6') in height.

Within that portion of the Waterfront Buffer Area extending from sixty five feet (65') from the Contour Line to one hundred feet (100') from the contour line, trees which are less than (6) inches in diameter, may be removed for the purpose of providing view corridors. Any such tree removal shall be performed using hand held gas or electric chain saws and/or manual handsaws. No other mechanical equipment or vehicles may be used in removing any trees.

The use of rip-rap, bulk heading or other shoreline stabilization methods or material may be initiated with the prior written approval by Duke Energy and any shoreline stabilizations shall be performed in compliance with Duke Energy's Shoreline Management Guidelines which are in effect at the time such stabilization occurs. Generally Duke Energy allows structural stabilization to extend only to a height five feet above the Contour Line. If Duke Energy authorizes Grantee to perform certain shoreline stabilization, then at all points where shoreline stabilization occurs, the inner boundary line of the Water Front Buffer Area (i.e. the boundary line opposite the Water Front Tract Contour Line) by the same distance that the stabilizations structures or improvements extend from the Water Front Contour Line into the Water Front Tract; provided however, That in no event shall the width of the undisturbed Water Front Tract Southern Buffer be reduced to less than one hundred (100) feet, or the width of the undisturbed Water Front Tract Eastern Buffer Area be reduced to less than sixty five (65) feet, between any portion of the interior edge of the stabilization structures or improvements and any residence or other structure or improvement located on the Water Front Tract (other than docks, boat ramps, or other water access structures which have been Approved in writing by Duke Energy).

An access corridor may be created with the Buffer Area for the purpose installing shoreline stabilization that has been approved in advance by Duke Energy and otherwise with above. The access corridor may not exceed fifteen (15) feet in width. Trees be removed within access corridor and grading or ground disturbance (which otherwise complies with the restrictions set forth herein) may be performed if reasonably Necessary to provide access to the Lake for the purposes described above in this. Any access corridor created on a Lot shall also be used as the trail for such Lot as permitted.

Removal of Trees and Other Vegetation. All trees, shrubs and ground cover within the following waterfront setback distances are as follows: Lots Numbers 1-11 are 100 feet, Lots Numbers 12-19 are 65 feet, and Lakeview Lots have a 250' Buffer. They are considered to be "protected" vegetation in that cutting and clearing generally is not permitted therein

without the prior written consent of Declarant or the Board of Directors. All Lot Owners within two hundred fifty (250) feet of the Duke Power Company Lake James Project Boundary of 1,200 feet above mean sea level must also comply with any applicable requirements of the "Lake James Protection Ordinance" attached hereto and incorporated herein by reference.

Declarant hereby reserves the right and easement benefitting Declarant and the Association to go upon any Lot or other portion of the Property to replant or order the replanting of any trees, shrubs, or other vegetation removed within the Subdivision in violation of the terms of this Section. Should Declarant or the Association exercise its easement rights pursuant to the terms of this Section the Owner of the nonconforming Lot shall reimburse Declarant or the Association (as applicable) within five (5) business days following the submission of an invoice for any costs or expenses incurred by Declarant or the Association. The exercise or non-exercise of the easement rights contained in this Section shall be subject to the discretion of the Declarant and the Association and neither Declarant, nor the Association shall have the obligation to exercise such rights.

Declarant and/or the Association shall have the authority but not the obligation, in their sole discretion, to assess penalties against an Owner who cuts, damages, or removes any trees, shrubs or other vegetation on any part of the Access Areas, its Lot or any other Lot or Access Area, contrary to the above provisions.

The penalties authorized by this Section, as well as all related expenses to be reimbursed, shall be considered a Special Individual Assessment against the respective Owner's Lot, entitling the Association to the assessment collection remedies specified in Article 7 of this Declaration.

Section 8.20. Marine Toilets. No water craft equipped with a toilet having a fixed or portable holding tank, or a through hull or overboard discharge toilet, shall be permitted at any Waterfront Lot Owners' or Lake View docks or piers.

Section 8.21. Docks, Piers and Boat Houses. Duke Energy Corporation controls access to, use of, and water levels in Lake James. Any Owner, the Declarant and the Association must receive permission from Duke Energy Corporation (or a successor manager of Lake James under authority from FERC) prior to placing or constructing any pier, structure or other improvement within or upon, or conducting any activity altering the topography of, the hydroelectric project surrounding and encompassing the waters of Lake James. Declarant makes no oral, express or permission, nor as to the continued existence, purity, depth or levels of water in Lake James, and Declarant shall have no liability with respect to these matters. Construction of any such improvements is also subject to the recorded restrictions and easements affecting the Lot.

Subject to the foregoing and to the provisions of this Declaration, the Owner

of any Waterfront Lot may construct one (1) pier, provided that such Lot is not located in an area where the narrowness of a cove precludes construction of a dock or pier as determined by Duke Energy Corporation and/or any governmental entity having jurisdiction at the time such improvements are to be constructed. Any waterfront improvement shall have a low profile and open design to minimize obstruction of neighbors' views. No two-level or enclosed piers and docks will not be permitted.

The placement, construction, or use of the Piers, Boat-slips, and of any pier, dock, boat-slip structures or other improvements within or upon, or the conducting of any activity altering the topography of the hydroelectric project surrounding and encompassing the waters of Lake James, is and shall be subject to each of the following:

- (i) easements, restrictions, rules and regulations for construction and use promulgated by the Association;
- (ii) all laws, statutes, ordinances and regulations of all Federal, State and local governmental bodies having jurisdiction thereof, including without limitation FERC;
- (iii) rules and regulations, privileges and easements affecting the Property and the waters and submerged land of Lake James established by Duke Energy Corporation, its successors and assigns. (Duke Energy Corporation is the manager of Lake James under authority granted by FERC; its current management plan runs through August 31, 2008. As manager of Lake James, Duke Energy Corporation controls access to, and the use and level of, the waters of Lake James. All Owners, the Association, the Declarant and any builders must receive permission from Duke Energy (or a successor manager of Lake James, under authority from FERC) prior to any alterations therein, including the construction and continued use and maintenance of any dock, pier, or boat-slip (including the Piers and Boat-slips).

No Owner of any Lot which adjoins the waters of Lake James shall construct a pier of any kind, boat mooring or any other structure outside the Pier Zone designated on the Map

Section 8.22. Boat Ramps. No boat ramps of any kind shall be permitted on any Lot, and no boat shall be placed in (or removed from) the waters of Lake James from any Lot, provided however, small watercraft such as canoes, dinghies, and jet skis may be launched at a public boat ramp outside the Subdivision.

Section 8.23. Non-waiver. No delay or failure on the part of an aggrieved party to invoke an available remedy in respect to a violation of any provision contained herein or referred to herein shall be held to be a waiver by that party of any right available to the party upon the recurrence or continuance of said violation or the occurrence of a different violation.

Section 8.24. Rights of Duke Energy Corporation. Duke Energy Corporation has certain privileges and easements affecting the Development which include the right, privilege and easement of backing, ponding, raising, flooding, or diverting the waters of Lake James and its tributaries upon and over the Development as more specifically described in the Deed from Duke Energy Corporation to the Declarant.

Section 8.25. Community Road Maintenance. The Community Roads shall be maintained and periodically repaired, as needed, by the Association. The Association shall meet from time to time to agree upon service work to be performed on the Community Roads. Any Lot Owner may call a meeting by mailing written notice to each Lot Owner's residence at least thirty (30) days prior to the meeting which notice specifies that a vote may be taken regarding maintenance and repair of each of the Roads. Failure to notify every Lot Owner of the meeting in the manner prescribed above shall invalidate any vote taken at such meeting unless all Lot Owners attended the meeting in person or by proxy. A validly called meeting may be conducted by telephone or other convenient method. There shall be one vote appurtenant to each Lot owned and any repair or maintenance of the Community Roads which is approved by a majority of the votes cast, in person or by proxy, at a validly called meeting shall be considered "Approved Maintenance". The cost of all Approved Maintenance shall be divided equally among the Lot Owners in proportion to the number of Lots which each of the Lot Owners own.

- (a) Each Lot Owner shall be obligated for its share of the cost of all Approved Maintenance, the payment of which is enforceable by any Lot Owner. A lien is hereby established on the Lots for the purpose of enforcing the obligations of any Lot Owner who fails to pay that Lot Owner's share of the cost of the Approved Maintenance of such Community Road(s). If a Lot Owner fails to pay his or her share of the costs of the Approved Maintenance, the defaulting Lot Owner shall pay interest accruing thereon at the lower of: (i) eighteen percent (18%) per annum or; (ii) the maximum rate allowed by law. Additionally, if any Lot Owner is required to employ an attorney to collect the obligations hereunder from a defaulting Lot Owner or enforce the lien hereunder against a defaulting Lot Owner, such Lot Owner shall be reimbursed by the defaulting Lot Owner for all reasonable attorney's fees and costs incurred with respect thereto.

- (b) Except as otherwise expressly set forth herein, Community Roads may be used by Owners of Lots, their families, guests or invitees.

Section 8.26. Building Envelope. No building or other Improvement on any Lot (including any stoops or porches, patios, decks, terraces, etc.) shall be erected or permitted by the Architectural Control Committee (as to each Lot, the "Building Envelope"). The Building Envelope approved for any Lot will be available from the Architectural Control Committee on an unrecorded map. Provided, however, and notwithstanding the foregoing to the contrary, (i) docks, piers (including any gazebos proposed to be attached thereto) and boat-slips are

exempt from the Building Envelope restriction, provided they are approved by the Architectural Control Committee in accordance with the applicable provisions of the Guidelines; and (ii) fireplace chimney structures projecting from the side of a dwelling may encroach no more than eighteen (18) inches into the side yard setback established by the Building Envelope. The Architectural Control Committee shall have the right in its sole discretion to make exceptions to any Building Envelope to recognize any special topography, vegetation, Lot shape or dimension, or other site-related conditions. In the event any zoning or subdivision ordinance, floodway regulation or other ordinance, law or regulation applicable to a Lot shall prescribe greater setbacks, than all buildings erected during the pendency of such requirements shall conform thereto.

Section 8.27. Mail and Newspaper Boxes. There will be a centrally located mailbox station for all residences of the Subdivision. The mailbox will comply with the Subdivision ordinances for a natural and uniform appearance.

Section 8.28. Governmental Requirements: Lake Buffer Guidelines. Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction of Improvements on and/or use and utilization of any Lot shall continue to be applicable and shall be complied with in regard to the Lots. Each Owner shall comply with all laws, regulations, ordinances (including, without limitation, applicable zoning ordinances) and other governmental rules and restrictions in regard to the Lot(s) or other portion of the Property owned by such Owner. Furthermore, each Owner shall comply with the conditions, limitations, and restrictions set forth in the Lake Buffer Guidelines.

Section 8.29. Bald Eagle Mitigation Restrictions

A) Mitigation Restrictions.

Mitigation Area. If a *Haliaeetus Leucocephalus* (American Bald Eagle) has built (or builds in the future) a nest anywhere on the property, the portion of the property within a

three-hundred (300) foot radius of the nest shall constitute a "Mitigation Area".

Restrictions. The following activities are expressly prohibited within any portion of the Mitigation Area; (1). Any and all real estate development, land clearing, building, construction, utilities, earth moving, or any such land altering activities that may harm, alter, or destroy the elements of the natural environment upon which American Bald Eagle may depend, and (2) any timber harvest and other management of vegetation in the Mitigation Areas except for the purposes of control of noxious or non-native pests or pathogens, but only such control as is approved in advance by the U.S. Fish and Wildlife Service

ARTICLE 9

ARCHITECTURAL AND LAKE BUFFER GUIDELINES

Section 9.1. General. Notwithstanding anything contained in this Declaration to the contrary, no Improvements, including, without limitation, site preparation on any Lot, or erection of buildings or exterior additions or alterations to any building situated upon the Property, or any landscaping or cutting of trees on any Lot or in the Lake Buffer Area, shall be commenced, erected or maintained on any portion of the Property, subject to the provisions of Section 9.7 hereof, until: (a) the Architectural Control Committee, appointed as hereinafter provided, has approved the plans and specifications therefore and the location of such Improvements and has given its written approval for commencement; and (b) the fees set forth in or contemplated in this Article 9 have been paid. The provisions of this Article 9 shall not apply to the construction of any Improvements commenced, erected or maintained by Declarant on any upon any of the Access Areas.

The Board may delegate to the Architectural Control Committee any powers or authority reserved or granted to the Board under the Article 9.

Section 9.2. Composition of Architectural Control Committee. So long as Declarant owns any Lot or other portion of the Property, the members of the Architectural Control Committee shall be appointed by Declarant. At such time as Declarant no longer owns any Lot or other portion of the Property or at such earlier date as Declarant releases its right to appoint the members of the Architectural Control Committee, the members of the Architectural Control Committee shall thereafter be appointed by the Board. The members of the Architectural Control Committee shall be appointed annually and will be composed of at least three (3) and not more than seven (7) individuals, the exact number of members of the Architectural Control Committee to be designated from time to time by the body then having the authority to appoint such members (Declarant or the Board, as the case may be). The members of the Architectural Control Committee need not be Owners of property in the Development. In the event of the death or resignation of any member of the Architectural Control Committee, the party or body then having the authority to appoint members to the

Architectural Control Committee shall have full authority to designate and appoint a successor. Members of the Architectural Control Committee may be removed and replaced at any time, with or without cause, and without prior notice, by the party or body then having the authority to appoint such members. Notwithstanding anything contained herein to the contrary, the Architectural Control Committee shall have the right, power and authority to employ and/or use the services of any architects, engineers or other professionals as it seems necessary or advisable, in its sole discretion, to carry out the duties and obligations of the Architectural Control Committee as described in this Article 9.

Section 9.3. Architectural and Lake Buffer Guidelines.

- (a) The Architectural Control Committee shall, from time to time, publish and promulgate architectural and lake buffer guidelines (the "Architectural and Lake Buffer Guidelines"). The Guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Control Committee in reviewing plans and specifications for Improvement. The Guidelines shall also set out, among other things, the procedures for submission, review and approval of plans and specifications (for the construction of Improvements) to the Architectural Control Committee and the fees to be imposed by the Architectural Control Committee, as more specifically described in Section 9.8 hereof. In any event, the Guidelines shall not be binding upon the Architectural Control Committee, may be revised and amended at any time by the Architectural Control Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval or disapproval of plans, specifications and other materials (for the construction of Improvements) submitted to the Architectural Control Committee for approval.
- (b) The Guidelines shall establish approved standards, methods, and procedures for the removal of trees and allowed activities within the Lake Buffer Areas.
- (c) The Architectural Control Committee is also hereby authorized to publish and promulgate from time to time, and revise and amend at any time in its sole discretion, construction rules to be followed by all Owners and builders performing work or constructing or installing Improvements on the Property.
- (d) The Architectural Control Committee may issue and amend the Guidelines from time to time and may publish and promulgate

Guidelines for different phases, sections or portions of the Property.

Section 9.4. Definition of "Improvements". The term "Improvement" or "Improvements" shall mean and include any and all man-made changes or additions to a Lot, including, but not limited to, the location, materials, size and design of all buildings (including any exterior devices attached to or separate from buildings, such as heating and air conditioning equipment, solar heating devices, antennae, satellite dishes, etc.); storage sheds or areas; piers, docks and boat-slips; roofed structures; parking areas; fences; pet "runs", lines and similar tethers or enclosures; landscaping (including cutting trees); hedges; mass plantings; irrigation equipment, apparatus and systems; driveways; signs; site preparation; changes in grade or slope; exterior illumination; and changes in any exterior color or shape. The definition of Improvements includes both original Improvements and all later changes to Improvements. The definition of Improvements, however, does not include the replacement or repair of Improvements previously approved by the Architectural Control Committee, provided such replacement or repair does not change exterior colors, materials, designs or appearances from that which were previously approved by the Architectural Control Committee.

Section 9.5. Enforcement.

(a) It is Declarant's intent that the architectural control provisions of this Declaration and any Additional Declarations are to permit control of the architectural design and to establish quality standards for construction and construction activity in the Developments and to help preserve values of properties in the Development. All Owners, by purchasing property subject to this Declaration, acknowledge that a violation of any such provisions could result in irreparable harm and damage to other Owners of property in the Development and to Declarant, and to the values of their respective properties in the Development, a monetary measure of which harm and damage would be difficult to establish. Accordingly, the Association shall have the specific right (but not the obligation) to enforce and/or to prevent any violation of the provisions contained in this Article 9 by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions. Declarant hereby specifically reserves and grants unto the Architectural Control Committee, the Board and any agent or member thereof, the right of entry and inspection upon any portion of the Property for the purpose of determination by the Architectural Control Committee or the Board whether there exists any construction of a Improvement which violates the terms of any approval by the Architectural Control Committee, the terms of the Guidelines, the terms of this Declaration or any Additional Declaration, or the terms of any amendments hereto or thereto.

(b) As to nonconforming or unapproved Improvements, the Association may require any Owner to restore such Owner's Improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved Improvements) if such Improvements were commenced or constructed in

violation of the Article. In addition, the Association may, but has no obligation to, cause such restoration, demolition and removal to be performed and to levy the amount of the cost thereof as a Special Individual Assessment against the Lot or portion of the Property upon which such Improvements were commenced or constructed. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, to remove any unapproved Improvement or otherwise to remedy a violation of the Guidelines, the Association shall be entitled to recover court costs, attorney's fees and expenses incurred by the Association and/or the Architectural Control Committee in connection therewith, which costs, fees and expenses may be levied as a Special Individual Assessment against the Lot or other portion of the Property upon which such Improvement was commenced or constructed.

Section 9.6. Failure of the Architectural Control Committee to Act. If the Architectural Control Committee fails to approve or disapprove any plans and specifications and any other submittal which conform (and which relate to Improvements which will conform) with the requirements hereof and of the Guidelines or to reject them as being inadequate or unacceptable within thirty (30) business days after receipt thereof, and provided such submittal is a full and complete submittal, in accordance with the Guidelines, of all items that were to have been submitted to the Architectural Control Committee, and provided the Architectural Control Committee shall again fail to approve or disapprove of such plans, specifications and any other submittal within ten (10) days after additional written request to act on such items is delivered to the Architectural Control Committee following the passage of such first above described thirty (30) business day period, it shall be conclusively presumed that the Architectural Control Committee has approved such conforming plans and specifications and any other submittal, EXCEPT that the Architectural Control Committee has no right or power, either by action or failure to act, to waive or grant any variances relating to any mandatory requirements specified in this Declaration or any Additional Declaration, and EXCEPT FURTHER, that the Architectural Control Committee shall not be deemed to have waived any of the requirements set forth in Section 9.8 hereof. If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject or approve the balance. The Architectural Control Committee is authorized to request the submission of samples of proposed construction materials.

Section 9.7. Variances. Upon submission of a written request for same, the Architectural Control Committee may, from time to time, in its sole discretion, permit Owners to construct, erect or install Improvements which are at variance with restrictions, requirements or provisions of this Declaration or any Additional Declaration from which a variance is permitted, pursuant to the terms hereof or thereof. In any case, however, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community and shall not materially change the scheme of restrictions herein set forth. Written requests for variances shall be deemed to be

disapproved in the event the Architectural Control Committee has not expressly and in writing approved such request within thirty (30) business days of the submission of such request. No member of the Architectural Control Committee shall be liable to any Owner for any claims, causes of action, or damages arising out of the grant or denial of any variance to any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other requests and the grant of a variance to any Owner shall not constitute a waiver of the Architectural Control Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder or under any Additional Declaration against any other Owner.

Section 9.8. Fees Required by the Architectural Control Committee. The Architectural Control Committee, in its sole discretion, may require that each Owner submitting plans and specifications for Improvements to the Architectural Control Committee pay one or more fees to the Architectural Control Committee or to Declarant as a condition to commencement of construction of such Improvements. Such fee(s), including the amount(s), payee and purpose(s) thereof, shall be established by, and may be increased from time to time by, the Architectural Control Committee and shall be set forth in the Guidelines.

Section 9.9. Notices and Submittals. Notices and submittals to the Architectural Control Committee shall be in accordance with the notice provisions set forth from time to time in the Guidelines.

Section 9.10. Separate Committee for Charges to Existing Improvements. The Board shall have the right, power and authority, in its sole discretion, to appoint a committee separate and apart from the Architectural Control Committee to review plans and specifications for any and all renovations, changes and additions to existing Improvements located on a Lot or other portion of the Property (herein, the "Architectural Changes Committee"). Should the Board appoint such an Architectural Changes Committee, then the Architectural Control Committee shall relinquish to the Architectural Changes Committee its authority to review plans and specifications for any such changes to existing Improvements, and the Architectural Changes Committee shall be solely responsible for review and approval of the same. The composition of the Architectural Changes Committee shall be determined by the Board in its sole discretion and the procedure for submission, review and approval of plans and specifications to and by the Architectural Changes Committee shall be set forth in the Guidelines. Notwithstanding the foregoing, nothing herein shall be deemed to obligate the Board to appoint an Architectural Changes Committee, and until an Architectural Changes Committee is appointed, the Architectural Control Committee shall be responsible for reviewing and approving or disapproving all plans and specifications for renovations, changes and additions to existing Improvements in accordance with the provisions of this Article 9 and the Guidelines.

Section 9.11. Limitation of Liability. No member of the Architectural

Control Committee or the Architectural Changes Committee shall be liable for claims, causes of action or damages (except where occasioned by willful misconduct of such member) arising out of services performed pursuant to this Article 9. Neither the Architectural Control Committee, nor the Architectural Changes Committee (if applicable), nor the members thereof, nor the Association, nor the Declarant, nor any officers, directors, members, employees, agents or affiliates of any of them, shall be liable for damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of, or the failure to approve or disapprove of, any plans and specifications. The approval of plans and specifications by the Architectural Control Committee or the Architectural Changes Committee (if applicable) shall not be deemed or construed as a representation or warranty of the Architectural Control Committee or the Architectural Changes Committee (as the case may be), Declarant, or any officer, director, member, employee, agent or affiliate of any of them: (i) that Improvements constructed in accordance with such plans and specifications will comply with applicable zoning ordinances, building codes, or other governmental or quasi-governmental laws, ordinances rules and regulations or (ii) as to the structural soundness, quality, durability, suitability, fitness or proper functioning of Improvements constructed in accordance with such plans and specifications; and any responsibility or liability therefore is hereby disclaimed. Every person who submits plans and specifications, and every Owner, agrees that he will not bring any action or suit against Declarant, the Association, any Association, the Architectural Control Committee, the Architectural Changes Committee (if applicable), the Board, or the officers, directors, members, employees, agents or affiliates of any of them, to recover any such damages and hereby releases, dismisses, and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. Declarant shall be the sole party responsible for the performance of Declarant's obligations under this Declaration, and no other person, firm or entity, including, without limitation, and entity affiliated with Declarant, shall have any obligation or liability for Declarant's obligations under the Declaration.

Section 9.12. Miscellaneous. Members of the Architectural Control Committee and, if applicable the Architectural Changes Committee, in the sole discretion of the party or body appointing such members (i.e. either Declarant or the Board, as the case may be) may be compensated for their services. The Association shall reimburse members of the Architectural Control Committee and the Architectural Changes Committee (if applicable) for reasonable out-of-pocket expenses associated with their activities hereunder. All costs, expenses and attorneys' fees of the Architectural Control Committee and the Architectural Changes Committee (if applicable), including those incurred in connection with the exercise of their enforcement or other powers as provided herein, shall be borne by the Association; provided, however, nothing herein shall be deemed to negate the Association's

right to an award of court costs, attorneys' fees and expenses in accordance with Section 5 of this Article 9.

ARTICLE 10

INSURANCE

Section 10.1. Board of Directors. The Board of Directors shall obtain and maintain at all times insurance of the type and kind and in no less than the amounts set forth below:

(a) Fire and Casualty. All improvements and all fixtures included in any Access Area, including but not limited to, Entrance Monuments, Community Roads and medians located thereon, and all personal property and supplies belonging to the Association, shall be insured in an amount equal to 100% of the current replacement cost up to the amount specified in the insurance policy (exclusive of land, foundation, excavation and other normally excluded items) as determined annually by the Board of Directors with the assistance of the insurance company providing coverage. The Board of Directors shall, at least annually, review the insurance coverage required herein and determine 100% of the current replacement cost of such improvements and fixtures and personal property and supplies. Such coverage shall provide protection against loss or damage by fire, windstorm, vandalism and malicious damage and all perils covered by a standard "all risk" insurance policy. All such policies shall provide that adjustment of loss shall be approved by the Board of Directors and the insurance company. In addition to the provisions and endorsements set forth in Sections 10.3 and 10.4, the fire and casualty insurance described herein shall contain the following provisions:

- (i) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Owners and their employees, agents, tenants and invitees; and
- (ii) a provision that the coverage will not be prejudiced by act or neglect of one or more Owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

The property and public liability insurance policy shall not contain (and the insurance shall not be placed with companies whose charters or bylaws contain) provisions whereby; (1) contributions or assessments may be made against the Association, the Owners

or the Mortgagees; (2) loss payments are contingent upon action by the carriers, directors, policy holders or Members; and (3) there are limiting clauses (other than insurance conditions) which could prevent Owners or Mortgagees from collecting the proceeds.

(b) Public Liability. The Board of Directors shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the Board of Directors may, from time to time, determine to be customary for projects similar in construction, location and use to any Access Areas, and customary for the activities and obligations of property owners' associations for projects similar to the Development, covering each member of the Board of Directors, the managing agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance, or repair of the Access Areas and out of the activities of the Association; provided, however, that in no event shall the amounts of such public liability insurance ever be less than \$1,000,000 per occurrence against liability for bodily injury, including death resulting there from, and damage to the Property or any portion thereof, occurring upon, in or about, or arising from or relating to, the Property or any portion thereof. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner. The Board of Directors shall review such limits annually. Until the first meeting of the Board of Directors following the initial meeting of the Owners, such public liability insurance shall be in amounts of not less than \$1,000,000 per occurrence for claims for bodily injury and property damage.

(c) Fidelity Coverage. The Board of Directors shall also be required to obtain fidelity coverage against dishonest acts on the part of all persons, whether officers, directors, trustees, employees, agents or independent contractors, responsible for handling funds belonging to or administered by the Association, in an amount determined by the Board of Directors in its discretion. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(d) Other. Such other insurance coverages, including flood insurance and worker's compensation, as the Board of Directors shall determine from time to time desirable.

Section 10.2. Premium Expense. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors and charged as a common expense to be collected from the Owners.

Section 10.3. Special Endorsements. The Board of Directors shall make diligent effort to secure insurance policies that will provide for the following:

- (a) recognition of any insurance trust agreement entered into by the Association;

- (b) coverage that may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least forty-five (45) days prior written notice to the named insured, any insurance trustee and all Mortgagees; and
- (c) coverage that cannot be canceled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Owner or any Mortgagee.

Section 10.4. General Guidelines. All insurance policies purchased by the Board of Directors shall be with a company or companies licensed to do business in the State of North Carolina and holding a rating of "A-10" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Association. Notwithstanding any of the foregoing provisions and requirements relating to insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, who shall have exclusive authority to negotiate losses under any policy providing such insurance.

Section 10.5. Owner's Personal Property. The Association or the Declarant shall not be liable in any manner for the safekeeping or conditions of any boat or other personal property belonging to used by any Owner or his family, guests or invitees, located on or used at the Access Areas. Further, neither the Association, nor the Declarant shall be responsible or liable for any damage or loss to, or of, any personal property of any Owner, his family, guests or invitees located on or used at the Access Areas. Each Owner shall be solely responsible for such boats and other personal property and for damage thereof, and shall be responsible for the purchase, at such Owner's sole cost and expense, of any liability insurance or other insurance for damage to or loss of such property.

ARTICLE 11

RIGHTS OF MORTGAGEES

Section 11.1. Approval of Mortgagees. Unless at least seventy-five percent (75%) of the Mortgagees holding Mortgagees on Lots located within the Development then subject to the full application of the Declaration have given their prior approval, the Association shall not:

- (a) except as otherwise specifically provided herein, by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association (the granting of easements for utilities or other purposes and the transfer of Boat-slips pursuant to the terms of the Declaration shall not be deemed a transfer within the meaning of this clause);
- (b) except as otherwise specifically provided herein, change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;
- (c) fail to maintain fire and extended coverage insurance on insurable improvements in any Common Areas in the Subdivision (with the exception of Public Roads) on a current replacement cost basis in an amount not less than 100% of the insurable value or
- (d) use the proceeds of any hazard insurance policy covering losses to any part of any Common Area for other than the repair, replacement or reconstruction of the damaged Common Areas or other common amenities.

Section 11.2. Additional Rights. Any Mortgagee shall have the following rights to wit:

- (a) to be furnished at least one copy of the annual financial statement and report of the Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year;
- (b) to be given notice by the Association of the call of any meeting of the Association's membership, and to designate a representative to attend all such meetings;
- (c) to be given prompt written notice of default under the Declaration, the Bylaws or any rules and regulations promulgated by the Association by any Owner owning a Lot encumbered by a Mortgage held by the Mortgagee, such notice to be sent to the principal office of such Mortgagee or the place which it may designate in writing;
- (d) to be given prompt written notice of any casualty loss to the Common Areas, or loss by eminent domain or other taking of (i) the Common Areas or (ii) any Lot encumbered by a Mortgage held by the Mortgagee;

- (e) to be given prompt written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (f) to be given prompt written notice of any eminent domain or condemnation proceeding affecting the Property; and
- (g) to be given prompt written notice of any action which requires the consent of all portion of the Mortgagees as specified herein.

Whenever any Mortgagee desires the provisions of this Section to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Association by certified mail, return receipt requested, addressed to the Association and sent to its address stated herein, identifying the Lot or Lots upon which any such Mortgagee holds any Mortgage or identifying any Lot owned by it, together with sufficient pertinent facts to identify any Mortgage which may be held by its and which notice shall designate the place to which notices are to be given by the Association to such Mortgagee.

Section 11.3. Books and Records. Any Mortgagee will have the right to examine the books and records of the Association during any reasonable business hours.

Section 11.4. Payment of Taxes and Insurance Premiums. The Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against the Common Areas and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for property owned by the Association and the persons, firms or corporations making such payments shall be owed immediate reimbursement therefore from the Association.

ARTICLE 12

CONDEMNATION

Section 12.1. Partial Taking Without Direct Effect on Lots. If part of the Property shall be taken or condemned by any authority having the power of eminent domain, such that no Lot is taken, all compensation and damages for and on account of the taking of the Common Areas, exclusive of compensation for consequential damages to certain affected Lots, shall be paid to the Board of Directors in trust for

all Owners and their Mortgagees according to the loss or damages to their respective interests in such Access Areas. The Association, acting through the Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the Access Areas, without limitation on the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Lot, hereby appoints the Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Access Areas. Such proceeds shall be used to restore the Access Areas with the excess, if any, to be retained by the Association and applied to future operating expenses by the Board of Directors, in its sole discretion. Nothing herein is to prevent Owners whose Lots are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their behalf for consequential damages relating to loss of value of the affected Lots, or improvements, fixtures or personal property thereon, exclusive of damages relating to the Access Areas. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms include as award for reduction in value of Lots without such allocation, the award shall be divided between affected Owners and the Association, as their interests may appear, by the Board of Directors in its sole discretion.

Section 12.2. Partial or Total Taking Directly Affecting Lots. If part or all of the Property shall be taken or condemned by any authority having the power of eminent domain, such that any Lot or a part thereof (including specific easements assigned to any Lot) is taken, the Association shall have the right to act on behalf of the Owners with respect to Access Areas as provided in Section 12.1 and the proceeds shall be payable as outlined therein. The Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Lots. All compensation and damages for and on account of the taking of any one or more of the Lots, or improvements, fixtures or personal property thereon, shall be paid to the Owners of the affected Lots and their Mortgagees, as their interests may appear. If all of the Property shall be taken such that the Association no longer has reason to exist and shall thereafter be dissolved and/or liquidated, all compensation and damages for and on account of the taking of the Access Areas shall be distributed with the other assets of the Association in accordance with the Articles of Incorporation.

Section 12.3. Notice to Mortgagees. A notice of any eminent domain or condemnation proceeding shall be sent to all Mortgagees who have served written notice upon the Association in accordance with Section 11.2 hereof.

ARTICLE 13

GENERAL PROVISIONS

Section 13.1. Enforcement. Declarant, being the developer of other subdivisions in the area of the Subdivision, wishes to maintain a high standard in the appearance and quality of the Subdivision. Though damages would be difficult to measure, the failure of the Owners or the Association to abide by the terms, covenants and restrictions contained in the Declaration would result in irreparable damage to Declarant and its reputation. Accordingly, Declarant, during the term of the Declaration as set forth in Section 13.4, as well as the Association or any Owner or Owners, shall have the right, but not the obligation, to enforce all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of the Declaration by proceeding at law or in equity against any person or persons violating or attempting to violate any such restriction, condition, covenant, reservation, lien or charge, either to restrain violation thereof or to recover damages thereof. Each Owner and the

Declarant shall have all appropriate remedies at law or in equity to enforce the provisions of the Declaration and the Bylaws and any duly authorized rules and regulations governing the Development against the Association.

In addition, the Association and the Owners hereby covenant and agree that they shall exercise their power of enforcement hereunder in order to maintain a first class subdivision in appearance and quality, and that they shall upon the request of Declarant, enforce any restriction, condition, covenant or reservation contained in the Declaration deemed by Declarant, in its sole discretion, to have been violated, using all remedies available to them at law or in equity. Failure by Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the rights to do so thereafter. The Declarant hereby reserves the right and easement, but not the obligation to go upon any portion of the Access Areas where needed, in Declarant's sole discretion, to bring such Access Areas within the standards required by Declarant. Should Declarant go upon the Access Areas to perform maintenance and/or repairs for such purpose, the Association hereby agrees to reimburse Declarant in full for the cost of such maintenance and/or repairs, upon receipt of a statement for such cost from Declarant.

Section 13.2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 13.3. Amendment. The Covenants, conditions and restrictions of the Declaration may be amended at any time and from time to time by an agreement signed by Owners holding a majority of votes appurtenant to the Lots which are then

subject to the Declaration; provided, however, that such amendment must be consented to by Declarant so long as Declarant is the Owner of any Lot in the Development. Any such amendment shall not become effective until the instrument evidencing such charge has been filed of record. Notwithstanding the foregoing, the consent of a majority of the Owners of Lots, plus the written consent of the Declarant shall be required to contract the land in the Development, to withdraw any portion of the Property from the requirements of the Declaration, or to restrict or revoke Declarant's right of enforcement as provided for in Section 13.1 of this Declaration.

Notwithstanding the foregoing, no such consent shall be required for any addition or amendment which Declarant is authorized to make under other Sections of this Declaration.

Notwithstanding anything in this Section 13.3 to the contrary, Declarant may, at Declarant's option, amend the Declaration without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause the Declaration to comply with the requirements of FHA, VA, the Federal National Mortgage Association or other similar agency. Declarant, without obtaining the approval of any other person or entity, may also make amendments or modifications hereto which are correctional in nature only and do not involve a change materially adversely affects the rights, duties or obligations specified herein.

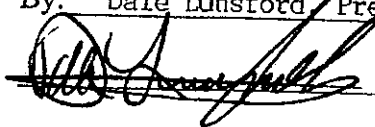
Section 13.4. Term. The covenants and restrictions of the Declaration are to run with the land (unless otherwise specified herein) and shall be binding upon all parties and all persons claiming under them for a period of twenty-five (25) years from the date the Declaration is recorded; after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then Owners of the Lots, plus Declarant, has been recorded, agreeing to terminate said covenants and restrictions in whole or in part. Provided, however, that the residential use restrictions set forth in Article 8 of this Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them in perpetuity.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed by its officers thereunto duly authorized and its corporate seal to be hereunto affixed, all the day and year first above written.

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BLACK BEAR DEVELOPMENT, INC.
A North Carolina Corporation

By: Dale Lunsford President

 President

ATTEST:

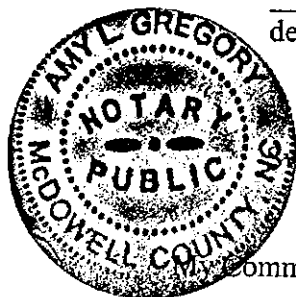
 Corporate Secretary



STATE OF NORTH CAROLINA

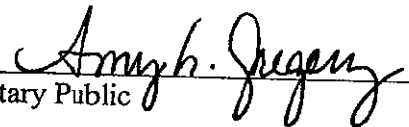
COUNTY OF MCDOWELL

This 1st day of October, 2003, personally appeared before me, Dale Lunsford who, being duly sworn by me, says that he is the _____ President of Black Bear Development, Inc., a North Carolina Corporation, and that the seal affixed to the foregoing instrument is the official seal of the Corporation, and that said writing was signed and sealed by him, in behalf of said Corporation, by its authority duly given. And the Secretary acknowledged the said writing to be the act and deed of said Corporation.



sworn to before me this 1st day of October, 2003

Commission Expires: 04-21-2008


Notary Public