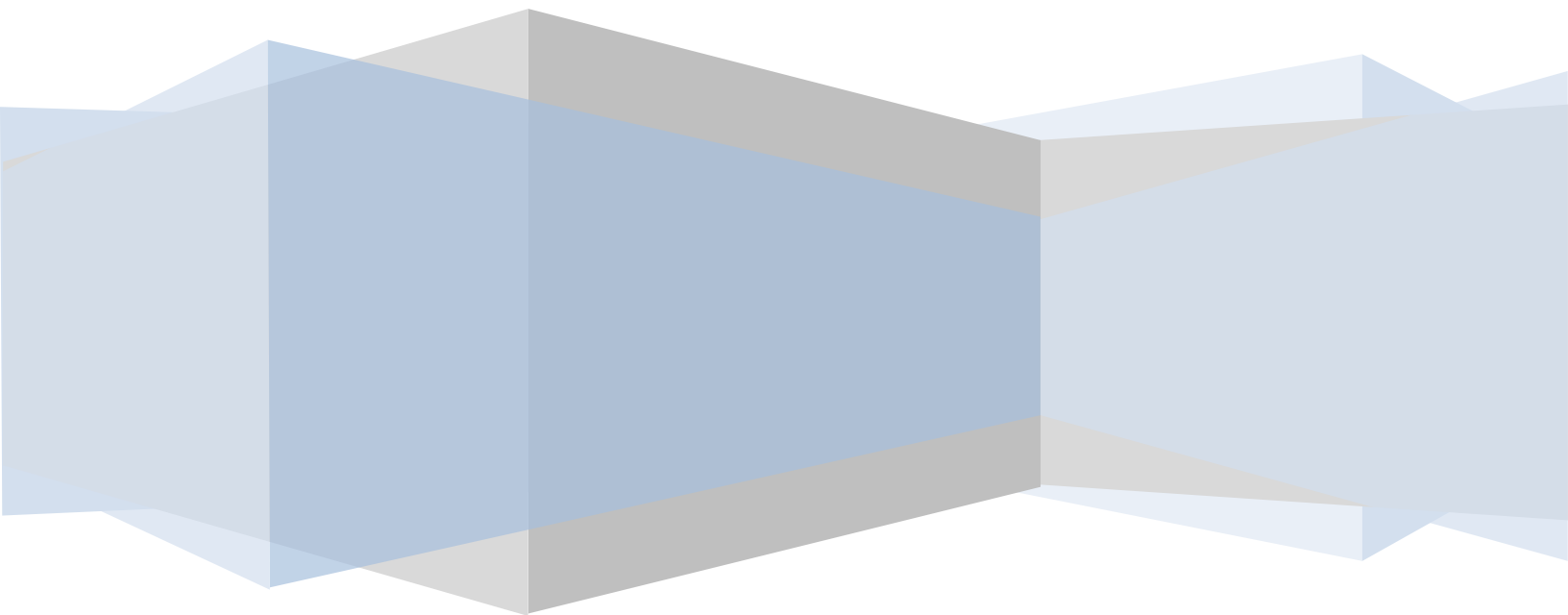


**Covenants, Conditions and  
Restrictions of Jordan  
Crossing Homeowners  
Association, Inc.  
Subdivision**

Chesterfield County, Virginia



**Table of Contents**

Article I ..... 12

Definitions ..... 12

Section 1. "Area of Common Responsibility" ..... 12

Section 2. "Articles of Incorporation" or "Articles" ..... 12

Section 3. "Association" ..... 12

Section 4. "Base Assessment" ..... 12

Section 5. "Board of Directors" or "Board" ..... 12

Section 6. "Builder" ..... 12

Section 7. "By-Laws" ..... 13

Section 8. "Class "B" Control Period" ..... 13

Section 9. "Clerk's Office" ..... 13

Section 10. "Common Area" ..... 13

Section 11. "Common Expenses" ..... 14

Section 12. "Community-Wide Standard" ..... 14

Section 13. "Declarant" ..... 14

Section 14. "Development Property" ..... 15

Section 15. "Common Area" Exhibit "A" ..... 15

Section 16. "Common Area" Exhibit "B" ..... 15

Section 17. "Improved Unit" ..... 15

Section 18. "Member" ..... 15

Section 19. "Mortgage" ..... 15

Section 20. "Mortgagee" ..... 15

Section 21. "Mortgagor" ..... 15

Section 22. "Neighborhood" ..... 16

Section 23. "Neighborhood Assessments" ..... 16

Section 24. "Neighborhood Expenses" ..... 16

Section 25. "Owner" ..... 16

Section 26. "Person" ..... 16

Section 27. "Properties" ..... 16

Section 28. "Special Assessment" ..... 16

Section 29. "Supplemental Declaration" ..... 17

Section 30. “Unimproved Unit” .....	17
Section 31. “Unit” .....	17
Section 32. “Voting Group” .....	17
Section 33. “Voting Member” .....	17
Article II .....	18
Property Rights .....	18
Section 1. General.....	18
Article III .....	19
Membership and Voting Rights .....	19
Section 1. Membership.....	19
Section 2. Voting.....	19
Article IV.....	20
Maintenance.....	20
Section 1. Association Responsibility.....	21
Section 2. Owner’s Responsibility.....	21
Section 3. Party Walls and Party Fences.....	22
Article V.....	25
Insurance and Casualty Losses.....	25
Section 1. Insurance.....	25
Section 2. Individual Insurance .....	28
Section 3. Damage and Destruction .....	29
Section 4. Disbursement of Proceeds.....	30
Section 5. Repair and Reconstruction.....	30
Article VI.....	31
No Partition.....	31
Article VII.....	31
Condemnation .....	31
Article VIII.....	32
Annexation of Additional Property.....	32
Section 1. Annexation Without Approval of Class “A” Membership.....	32
Section 2. Acquisition of Additional Common Area.....	33
Section 3. Withdrawal of Property .....	33

Section 4. Additional Covenants and Easements .....	33
Section 5. Amendment .....	34
Article IX.....	34
Rights and Obligations of the Association .....	34
Section 1. Common Area .....	34
Section 2. Personal Property and Real Property for Common Use .....	34
Section 3. Rules and Regulations .....	34
Section 4. Implied Rights .....	35
Section 5. Governmental Interests .....	35
Article X.....	35
Assessments.....	35
Section 1. Creation of Assessments .....	35
Section 2. Non-Payment and Remedies .....	37
Section 3. Computation of Base Assessment .....	38
Section 4. Special Assessments.....	39
Section 5. Lien for Assessment .....	41
Section 6. Reserve Budge and Capital Contribution .....	41
Section 7. Date of Commencement of Assessments .....	42
Section 8. Subordination of the Lien to First Mortgages.....	42
Section 9. Capitalization of Association.....	42
Section 10. Exempt Property .....	43
Article XI.....	43
Architectural Standards .....	43
Section 1. New Construction Committee .....	44
Section 2. Modifications Committee .....	44
Section 3. No Waiver of Future Approvals .....	45
Section 4. Variance .....	46
Section 5. Compliance With Guidelines.....	46
Section 6. No Liability .....	46
Article XII .....	46
Use Restrictions .....	46
Section 1. Signs .....	47

Section 2.	Parking and Prohibited Vehicles .....	48
Section 3.	Occupants Bound .....	49
Section 4.	Animals and Pets .....	49
Section 5.	Quiet Enjoyment .....	49
Section 6.	Unsightly or Unkempt Conditions .....	50
Section 7.	Antennas .....	50
Section 8.	Garbage Cans, Tanks, Etc. ....	50
Section 9.	Subdivision of Unit and Time Sharing .....	51
Section 10.	Firearms .....	51
Section 11.	Pools .....	51
Section 12.	Irrigation.....	51
Section 13.	Tents, Mobile Homes and Temporary Structures.....	52
Section 14.	Drainage and Septic Systems .....	52
Section 15.	Tree Removal .....	52
Section 16.	Sight Distance at Intersections.....	52
Section 17.	Air Conditioning Units .....	53
Section 18.	Lighting .....	53
Section 19.	Artificial Vegetation, Exterior Sculpture, and Similar Items .....	53
Section 20.	Energy Conservation Equipment .....	53
Section 21.	Wetlands, Rivers and Other Water Bodies .....	53
Section 22.	Playground .....	54
Section 23.	Fences .....	54
Section 24.	Business Use.....	54
Section 25.	On-Site Fuel Storage .....	55
Section 26.	Golf Carts.....	55
Section 27.	Leasing of Units .....	56
Section 28.	Laws and Ordinances .....	56
Section 29.	Single Family Occupancy.....	57
Section 30.	Water and Mineral Operations .....	57
Section 31.	Doors and Windows.....	57
Section 32.	Utility Lines.....	58
Article XIII	.....	58

General Provisions .....	58
Section 1. Term .....	58
Section 2. Amendment .....	58
Section 3. Indemnification .....	59
Section 4. Easements for Utilities, Etc .....	60
Section 5. Easement for Overhanging Roofs and Eaves .....	61
Section 7. Easements for River and Pond Maintenance and Flood Water.....	62
Section 8. Easements to Serve Additional Property .....	63
Section 9. Severability.....	63
Section 10. Right of Entry .....	63
Section 11. Perpetuities.....	64
Section 12. Use of the Words “Jordan Crossing” and “Innovative Builders of Midlothian, LLC” .....	64
Section 13. Compliance.....	64
Section 14. No Obligation for Recreational Facilities .....	65
Section 15. Security .....	65
Section 16. Notice of Sale or Transfer of Title .....	66
Article XIV.....	66
Mortgage Provisions .....	66
Section 1. Notices of Action.....	66
Section 2. Actions Requiring Approval of Eligible Mortgage Holders.....	67
Section 3. Additional Requirements .....	68
Section 4. No Priority .....	70
Section 5. Notice to Association .....	70
Section 6. Amendment by Board.....	70
Section 7. Applicability of Article XIV.....	70
Section 8. Failure of Mortgagee to Respond .....	70
Article XV.....	71
Declarant’s Rights .....	71
EXHIBIT A.....	74
Submitted Plat (without clubhouse).....	74
EXHIBIT B.....	76
Submitted Plat (with clubhouse) .....	76

EXHIBIT C.....	78
By-Laws .....	78
Article I.....	78
Section 1. Annual Meeting.....	78
Section 2. Other Meetings.....	78
Section 3. Notice of Meetings.....	78
Section 4. Quorum.....	78
Section 5. Conduct of Meetings.....	79
Section 6. Voting.....	79
Section 7. Proxies.....	80
Article II.....	80
Board of Directors; Selection; Term of Office.....	80
Section 1. Number .....	80
Section 2. Election of Board of Directors.....	80
Section 3. Term of Office .....	81
Section 4. Removal .....	81
Section 5. Compensation .....	81
Section 6. Action Taken Without a Meeting.....	81
Article III.....	82
Board of Directors.....	82
Section 1. Number, Election and Terms .....	82
Article IV.....	82
Nomination and Election of Directors .....	82
Section 1. Nomination .....	82
Section 2. Election.....	82
Article V.....	82
Meeting of Directors.....	82
Section 1. Regular Meetings .....	82
Section 2. Special Meeting.....	83
Section 3. Quorum .....	83
Section 4. Fidelity Bonds.....	83
Article VI.....	83

Powers and Duties of the Board of Directors .....	83
Section 1. Powers.....	83
Section 2. Duties .....	84
Section 3. Management Agent .....	85
Article VII.....	86
Officers and Their Duties .....	86
Section 1. Enumeration of Officers.....	86
Section 2. President .....	86
Section 3. Secretary .....	86
Section 4. Treasurer .....	86
Section 5. Vice-President .....	87
Section 6. Assistant Secretary.....	87
Section 7. Assistant Treasurer .....	87
Section 8. Removal and Vacancies.....	87
Article IX.....	87
Indemnification Against Liability.....	87
Section 1. Indemnification Against Liability .....	88
Article X.....	88
Committees.....	88
Article XI.....	88
Books and Records – Fiscal Management.....	88
Section 1. Fiscal Year.....	88
Section 2. Principal Office – Change of Same .....	89
Section 3. Books and Accounts .....	89
Section 4. Annual Statements.....	89
Section 5. Inspection of Books.....	89
Article XII .....	90
Assessments.....	90
Article XIII .....	90
Corporate Seal .....	90
Article XIV.....	91
Amendments.....	91



Section 1.....	91
Section 2.....	91
Article XV.....	91
Interpretation – Miscellaneous.....	91
Section 1. Conflict.....	91
Section 2. Notices.....	91
Section 3. Severability.....	92
Section 4. Waiver.....	92
Section 5. Captions.....	92
Section 6. Gender, Etc.....	92
Article XVI.....	92
Compliance & Dissolution.....	92

**DECLARATIONS OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
JORDAN CROSSING HOMEOWNERS ASSOCIATION, INC.**

THIS DECLARATION OF PROTECTIVE COVENANTS is made this 1<sup>st</sup> day of December, 2018, by Innovative Builders of Midlothian, LLC (IBM), a Virginia Limited Partnership, its successors or assigns (hereinafter referred to as a “Declarant”) (“Grantor” for indexing purposes).

Declarant is the owner of a portion of the real property described in Exhibit “A” attached hereto and incorporated herein by reference. IBM is the owner and developer of a portion of the property described in Exhibit “A”. Declarant and IBM intend by this Declaration to impose upon the Properties (as defined herein) mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Properties. Declarant and IBM desire to provide a reasonable procedure for the overall development of the Properties, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such Properties as are now or hereafter subject to this Declaration.

Declarant and IBM hereby declare that all of the property described in Exhibit “A” and any additional property which is hereafter subject to this Declaration by Supplemental Declarations (as defined herein) shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subject to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

The real property subject to this Declaration shall be subject to the Virginia Property Owners' Association Act set forth in Chapter 26 of Title 55 of the Code of Virginia (1950), as amended.

The Owners of Units are subject to the Department of Housing and Urban Development rule 24 CFG PART 100 entitled Implementation of the Housing for Older Persons Act of 1995. The Jordan Crossing Homeowners Association, Inc. meets or exceeds all requirements of this rule and specifically requires the following:

- a) One Owner of each Unit must be fifty-five (55) years of age or older on or before the date of transfer of the unit.
- b) At least 80% of the occupied Units are occupied by at least one person who is fifty-five (55) years of age or older.
- c) No permanent resident of any unit may be under the age of nineteen (19).

## Article I

### Definitions

**Section 1. “Area of Common Responsibility”** shall mean and refer to the Common Area, together with those areas, if any, which by the terms of this Declaration, any Supplemental Declaration or other applicable covenants, or by contract or agreement with any Neighborhood or Person, become the responsibility of the Association. The office of any property manager employed by or contracting with the Association, if located on the Properties, or any public rights-of-way within or adjacent to the Properties, may be part of the Area of Common Responsibility.

**Section 2. “Articles of Incorporation” or “Articles”** shall mean and refer to the Articles of Incorporation of the Jordan Crossing Homeowners Association, Inc, as filed with the Secretary of the State Corporation Commission of the Commonwealth of Virginia.

**Section 3. “Association”** shall mean and refer to the Jordan Crossing Homeowners Association, Inc., a Virginia nonprofit nonstick corporation, its successors or assigns.

**Section 4. “Base Assessment”** shall mean and refer to assessments levied against all Units in the Properties to fund Common Expenses.

**Section 5. “Board of Directors” or “Board”** shall be and refer to the elected body of the Association having its normal meaning under Virginia corporate law.

**Section 6. “Builder”** shall mean and refer to any person, corporation, partnership, association, trust or estate, which acquires title to an Unimproved Unit solely for the purpose of (a) engaging in the business of constructing a

residential dwelling unit thereon and reselling such Unit to one or more purchasers for residential use, and (b) reselling such Unimproved Unit to any person, partnership, corporation, association, trust or estate engaged in the business described in (a) of the Section.

**Section 7. “By-Laws”** shall mean and refer to the By-Laws of the Jordan Crossing Homeowners Association, Inc., attached hereto as Exhibit “C” and incorporated herein by reference, as they may be amended from time to time.

**Section 8. “Class “B” Control Period”** shall mean and refer to the period of time which the Class “B” Member is entitled to appoint a majority of the members of the Board of Directors.

**Section 9. “Clerk’s Office”** shall mean and refer to the Clerk’s office of the Circuit Court of Chesterfield County, Virginia.

**Section 10. “Common Area”** shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of every Owner, subject only to the limitations set forth in Article II, Section 1. Common area shall consist of both General Common Area and Exclusive Common Area, as defined herein. The recordation by Declarant of a subdivision plat, or any other plat recorded by the Declarant in the Clerk’s Office shall constitute the granting by Declarant to the Association of a non-exclusive easement in common with Declarant for the use, benefit, and enjoyment of all areas designated thereon as “Common Area”, “Open Space”, or “Common Area Easement”, provided that Declarant shall have the right to amend, relocate or terminate any such easement comprising Common Area by recording an amendment to any such plat in the Clerk’s Office at any time prior to the termination of the Class B Control Period. Common Area shall also include any real or personal property (including property in which the Association has previously been granted an easement) which may be conveyed in fee by deed from the Declarant to the Association at any time. The Association shall be

obligated to accept as Common Area any property or interest therein conveyed to it by the Declarant.

**Section 11. “Common Expenses”** shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Unit Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to the Declaration, the By-Laws, and the Articles of Incorporation of the Association, but shall not include any expenses incurred during the Class “B” Control Period for initial development, original construction or installation of infrastructure, original capital improvement, or other original construction costs unless approved by Voting Members representing a majority of the total Class “A” vote of the Association.

**Section 12. “Community-Wide Standard”** shall mean the standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the New Construction Committee.

**Section 13. “Declarant”** shall mean and refer to Innovative Builders of Midlothian, LLC, a Virginia limited partnership. Declarant may designate a successor declarant or declarants to take and hold some or all of its respective rights, powers, privileges and obligations as Declarant under the Declaration, by written instrument recorded in the Clerk’s Office. The Association and the Owners shall not enjoy any of the rights, powers. Privileges or obligations of the Declarant unless specifically assigned or conveyed as provided herein. The beneficiary of the first deed of trust given by the Declarant encumbering undeveloped property and developed but unsold property subject to this Declaration, may, upon foreclosure of that deed of trust or upon receipt of title to the property encumbered thereby pursuant to a deed in lieu of foreclosure, succeed to any or all of the Declarant’s rights under this Declaration, but shall succeed to only those rights of the Declarant which it elects to succeed to as specifically set forth in the trustee’s deed or deed in lieu of foreclosure by which it or its nominee take title.

**Section 14. “Development Property”** shall mean and refer to the property described in Exhibit “A” and all or a portion of the property described in Exhibit “B” which Declarant may from time to time anticipate subjecting to this Declaration.

**Section 15. “Common Area” Exhibit “A”** shall mean all portions of the denoted Common Area located in the residential portion of the Exhibit “A” plat.

**Section 16. “Common Area” Exhibit “B”** shall mean all portions of the denoted Common Area located in the Clubhouse portion of the Exhibit “B” plat.

**Section 17. “Improved Unit”** shall mean and refer to any Unit which has all of the following characteristics:

- a) A residential dwelling unit approved by the Association has been constructed thereon
- b) A permanent or temporary certificate of occupancy has been issued for the residential dwelling unit constructed thereon; and
- c) The Unit has been occupied for residential use.

**Section 18. “Member”** shall mean and refer to a Person entitled to membership in the Association, as provided herein.

**Section 19. “Mortgage”** shall mean and refer to a mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

**Section 20. “Mortgagee”** shall mean and refer to a beneficiary or holder of a Mortgage.

**Section 21. “Mortgagor”** shall mean and refer to any Person who gives a Mortgage.

**Section 22. “Neighborhood”** shall mean and refer to the attached plats in Exhibits “A” and “B”.

**Section 23. “Neighborhood Assessments”** shall mean assessments levied against the Units to fund Neighborhood Expenses as more particularly described in Article X, Section 1 of this Declaration.

**Section 24. “Neighborhood Expenses”** shall mean and include the actual and estimated expenses incurred by the Association for the benefit of Owners of Units within the Neighborhood which may include a reasonable reserve for capital repairs and replacements, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized herein.

**Section 25. “Owner”** shall mean and refer to one (1) or more Persons who hold the record title to any Unit which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, then the purchaser (rather than the fee owner) will be considered the Owner. If a Unit is subject to a written lease with a term in excess of one (1) year and the lease specifically so provides, then upon filing a copy of the lease with the Board of Directors the lessee (rather than the fee owner) will be considered the Owner for the purpose of exercising all privileges of membership in the Association.

**Section 26. “Person”** means a natural person, a corporation, a partnership, a trustee, or any other legal entity.

**Section 27. “Properties”** shall mean and refer to the real property described in Exhibit “A” attached hereto, together with such additional property as is hereafter subject to this Declaration by Supplemental Declaration.

**Section 28. “Special Assessment”** shall mean and refer to assessments levied in accordance with Article X, Section 4, or this Declaration.



**Section 29. “Supplemental Declaration”** shall mean an amendment or supplement to the Declaration.

**Section 30. “Unimproved Unit”** shall mean and refer to any Unit that is not an Improved Unit.

**Section 31. “Unit”** shall mean a portion of the Properties, whether developed or undeveloped, intended for development, use, and occupancy as an attached or detached residence for a single family. Unless otherwise specified, the term Unit shall include within its meaning (by way of illustration, but not limitation) condominium units, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such, all as may be developed, used, and defined as herein provided or as provided in Supplemental Declarations covering all or a part of the Properties. The term shall include all portions of the lot owned as well as any structure thereon.

In the case of a parcel or vacant land or land on which improvements are under construction, the parcel shall be deemed to contain the number of Units designated for residential use for such parcel on a site plan approved by Declarant, until such time as a certificate of occupancy is issued on all or a portion thereof by the local governmental entity having jurisdiction. After issuance of a certificate of occupancy on any portion thereof, the portion designated in the certificate of occupancy shall constitute a separate Unit or Units as determined above and the number of Units on the remaining land, if any, shall continue to be determined in accordance with this paragraph.

**Section 32. “Voting Group”** shall mean one (1) or more Owner(s) who vote on a common slate for election of the directors to the Board of Directors of the Association.

**Section 33. “Voting Member”** shall mean and refer to the Owner(s) responsible for casting all votes.

## Article II

### Property Rights

**Section 1. General.** Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

- a) This Declaration, and any restrictions or limitations contained in any deed conveying such property to the Association;
- b) The right of the Board to adopt other rules regulating the use and enjoyment of the Common Area, including limiting the number of guests who may use the Common Area;
- c) The right of the Board to suspend the right of an owner to use recreational facilities with the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed sixty (60) days for a single violation or for a longer period in the case of any continuing violation, of the Declaration, By-Laws or rules of the Association, after notice and a hearing;
- d) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area pursuant to Article XIII, Section 4 hereof;
- e) The right of the Board to impose reasonable membership requirements and charge reasonable admission or other fees for the use of any recreational facility situated upon the Common Area;
- f) The right of the Board to permit nonmember use of any recreational facility situated on the Common Area upon payment of use fees establish by the Board;
- g) The right of the Association, acting through the Board, to mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Article XIV, Section 2 hereof.

Any owner may delegate his or her right of use and enjoyment to the members of his or her family, lessees and social invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt. An Owner who leases his or her Unit shall be deemed to have delegated all such rights to the Unit's lessee.

## **Article III**

### **Membership and Voting Rights**

**Section 1. Membership.** Every Owner as defined in Article I, shall be deemed to have a membership in the Association. No Owner, whether one or more Persons, shall have more than one membership per unit owned. In the event a Unit is owned by more than one Person, all such co-owners shall be entitled to the privileges of membership, subject to the restrictions on voting set forth in Section 2 of this Article and in the By-Laws, and all such co-owners shall be jointly and severally obligated to perform the responsibilities of owners hereunder. The rights and privileges of membership may be exercised by a Member of the Member's spouse, subject to the provisions of this Declaration and the By-Laws. The membership rights of Unit owned by a corporation or partnership shall be exercised by the individual designated from time to time by the owner in a written instrument provided to the Secretary.

**Section 2. Voting.** The Association shall have two classes of membership, Class "A" and Class "B".

- a) Class "A". Class "A" Members shall be all Owners with the exception of the Class "B" Member, if any.

Class "A" Members shall be entitled to one equal vote for each Unit in which they hold the interest required for membership under

Section1 hereof; there shall be only one vote per Unit. Unless otherwise specified in this Declaration or the By-Laws, the vote for each Unit shall be exercised by the Voting Member, as defined in Article I, representing the Neighborhood of which the Unit is a part. The Voting Member may cast all such votes as it, in its discretion, deems appropriate.

In any situation where a Member is entitled personally to exercise the vote for his Unit and more than one Person holds the interest in such Unit required for membership, the vote for such Unit shall be exercised as those Persons determine among themselves and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

- b) Class "B". The Class "B" member shall be the Declarant. The rights of the Class "B" Member are specified elsewhere in the Declaration and the By-Laws. The Class "B" Member shall be entitled to appoint a majority of the members of the Board of Directors during the Class "B" Control Period. The Class "B" membership shall terminate and become converted to Class "A" membership upon the earlier of:
- i. Two years after expiration of the Class "B" Control Period pursuant to Article III of the By-Laws; or
  - ii. When, in its discretion, the Declarant so determines.

## **Article IV**

### **Maintenance**

**Section 1. Association Responsibility.** The Association shall maintain and keep in good repair the Area of Common Responsibility. The Area of Common Responsibility shall include, but need not be limited to, the Common Areas, landscaped areas within public rights-of-way throughout the Properties, landscaping on any public utility easement within the Properties (subject to the terms of any easement agreement relating thereto), BMP detention pond facility, and such portions of any additional property within the Area of Common Responsibility.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

There are hereby reserved to the Association blanket easements over the Properties as necessary to enable the Association to fulfill responsibilities under this Section.

Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the Base Assessment, subject to the right of the Association to seek reimbursement from the owner(s) of, or other persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof.

**Section 2. Owner's Responsibility.** Each owner shall maintain his or her Unit and all structures, parking areas and other improvements comprising the Unit. Owners of Units which are adjacent to any portion of the Common Area on which walls, other than walls which form part of a building, have been constructed shall maintain and irrigate that portion of the Common Area which lies between such wall and the Unit boundary. Owners of Units adjacent to any roadway within the Properties shall maintain driveways, including, without

limitation, aprons, serving their respective Units, whether or not lying within the Unit boundaries, and shall maintain and irrigate landscaping on that portion of the Common Area, if any, or right-of-way between the Unit boundary and the back-of-curb or, if no curb, edge of pavement, of the adjacent street. Owners of Units abutting the bank or water's edge, or a portion of the Common Area abutting the bank or water's edge, of any river, pond, stream or wetland within the Properties shall maintain and irrigate all landscaping between the Unit boundary and such bank or water's edge; provided there shall be no right to remove trees, shrubs or similar vegetation from this area without prior approval pursuant to Article XI hereof.

All maintenance required by this Section 2 shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants unless such maintenance responsibility is otherwise assumed by or assigned to a Neighborhood pursuant to any additional declaration of covenants applicable to such Unit. In addition to any other enforcement rights available to the Association, if any owner fails properly to perform his or her maintenance responsibility, the Association may perform it and assess all costs incurred by the Association against the Unit and the Owner thereof in accordance with Article X, Section 4 of this Declaration; provided, however, except when entry is required due to an emergency situation, the Association shall afford the owner reasonable notice and an opportunity to cure the problem prior to entry.

### **Section 3. Party Walls and Party Fences.**

- a) General Rules of Law to Apply. Each wall which is built as a part of the original construction of the residences (including fences) upon the Units and which is placed on the dividing line between two (2) Units so as to be common with, or immediately adjacent to and touching a wall of the residence on the other Unit (i.e., a town or cluster home), shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for

property damage due to negligence or willful acts or omissions shall apply thereto.

- b) Sharing of Repair Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall in proportion to such use. Any disputes over the reasonableness of the cost of such repair and maintenance shall be resolved in accordance with subsection (e) of this Section 4.
- c) Destruction by Fire or Other Casualty or Accident
  - i. Causes Attributable to Neither Owner. If a party wall is destroyed or damaged by fire, casualty or accident, the cause of which is not attributable to either Owner or to conditions existing on either Unit or within the residence thereon (e.g., fire caused by lightning and fire originating on property other than either Unit, damage due to storms, floods, wind or other acts of God), then the reasonable cost of the repair or reconstruction of the party wall shall be shared equally by the Owners who share use of the wall. Any disputes over the reasonableness of the cost of such repair or construction shall be resolved in accordance with subsection (e) of this Section 4.
  - ii. Causes Attributable to Conditions Existing on a lot or Within the Residence Thereon. If a party wall is destroyed or damaged by fire, casualty or accident, the cause of which is attributable to conditions existing on one of the Units or within the residence thereof (e.g., fire originating in only one residence or pipes bursting in only one residence), but which is not attributable to the negligent or willful act or omission of either of the Owners, then the Owner of the Unit upon which such conditions existed (the "Contributing Owner") shall bear the full cost of repair and restoration of the party wall. If the Contributing Owner does not promptly commence efforts to repair and restoration to completion, then the other Owner (the "Noncontributing Owner") may affect such repair and restoration and either charge the cost of the same to the Contributing Owner or be entitled to prompt reimbursement for same. The costs incurred by the Noncontributing Owner shall constitute both the personal obligation and debt of the Contributing Owner and a

lien in favor the Noncontributing owner against the Unit of the Contributing Owner.

- iii. Causes Attributable to the Fault of an Owner. If a party wall is damaged or destroyed by fire, casualty, or other causes attributable to the sole fault of either Owner (e.g., the negligent or willful act or omission of either Owner), then the Owner at fault shall bear the full cost of repair and restoration of the party wall. If the Owner at fault does not promptly commence efforts to repair and restore the party wall and thereafter diligently prosecute to completion such repair and restoration, the Owner who is not at fault (the “Innocent owner”) may effect such repair and restoration and either charge the costs of the same plus ten percent (10%) of such cost to the owner at fault or be entitled to prompt reimbursement for penalty for failure to promptly initiate repair shall constitute both the personal obligation and debt of the owner at fault and a lien in favor the Innocent Owner against the Unit of the Owner at fault. The rights of the Innocent Owner provided in the subsection shall not limit, but shall be in addition to, any right of the Innocent Owner to seek and collect greater damages from the Owner at fault if the damage or destruction is attributed to a willful or negligent act or omission of the owner at fault.
  
- d) Waterproofing. An Owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the entire cost of furnishing the necessary protection against such elements. The owner not at fault shall enjoy all the same rights and remedies as an Innocent Owner in subsection (c)(ii) of this Section 4.
  
- e) Disputes. Upon any dispute arising concerning a party wall, any Owner may seek to have such dispute resolved by the Board of Directors, by providing written notice of such intention to the other Owner and the Chairman of the Board of Directors, unless the responding owner provides written notice to the initiating owner and the Chairman of the Board of Directors, stating his decision not to allow the dispute to be resolved by the Board of



Directors, within fourteen (14) days after the receipt of the notice from the initiating Owner, the dispute shall be heard and resolved by the Board of Directors. The Board of Director's decision (i) must be in writing, but no reason need be given, and (ii) shall be final and binding on the parties to the dispute. Any party, including the Board of Directors, may be represented by counsel in connection with the presentation of a case before the Board of Directors. If any party to a dispute serves or has family member who serve on the Board of Directors, such party and such party's family members shall not take part in the Board of Directors' proceedings or decision with respect to such dispute. Notwithstanding the foregoing, disputes under Subsection (b) or Subsection (c)(ii) of this Section 4 shall be resolved by the Board of Directors in accordance with this Subsection (e) and no party may "opt-out" or avoid this procedure. The Board of Directors may delegate its role in the foregoing proceedings to the Neighborhood Association or Neighborhood Committee for the Neighborhood in which the dispute arises.

## **Article V**

### **Insurance and Casualty Losses**

**Section 1. Insurance.** The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Area. If blanket "all-risk" coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any hazard.

The Association shall have no insurance responsibility for any part of any Private Amenity except to the extent it is a part of the Area of Common Responsibility or as otherwise provided in this Declaration.

The Board shall also obtain a public liability policy covering the Area of Common Responsibility, insuring the Association and its Members for all damage or injury caused by the negligence of the Association, any of its Members, employees or agents, or any other person who has a right to occupy a Unit. The public liability policy shall have at least a One Million Dollar (\$1,000,000) single person limit as respects bodily injury and property damage, a Three Million Dollar (\$3,000,000) limit per occurrence, if reasonably available, and a Five Hundred Thousand Dollar (\$500,000) minimum property damage limit.

Premiums for all insurance on the Area of common Responsibility shall be Common Expenses, subject to any other covenants or agreements relating thereto. Such premiums shall be included in the Base Assessment, provided, premiums to insure Exclusive Common Areas shall be included in the Base Assessment.

The policies may contain reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in subsection (b) below. Such insurance shall be governed by the following provisions:

- a) All policies shall be written with a company authorized to do business in Virginia which holds a Best's rating of A or better and is assigned a financial

size category of XI or larger as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating which is available

- b) All insurance on the Area of Common Responsibility shall be for the benefit of the Association and its Members and shall be written in the name of the Association as trustee for the benefited parties.
- c) Exclusive authority to adjust losses under policies obtained by the Association on the Properties shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupant, or their Mortgagees.
- e) All property insurance policies shall have an inflation guard endorsement, if reasonably available, and if the policy contains a co-insurance clause, it shall also have an agreed amount endorsement. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons familiar with construction in the Chesterfield County, Virginia area.
- f) The Association's Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:
  - i. A waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, officers, employees and manager, the Owners and occupants of Units, and their respective tenants, servants, agents, and guests;
  - ii. A waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;
  - iii. A statement that no policy may be cancelled, invalidated, suspended, or subject to nonrenewal on account of any one or more individual Owners;
  - iv. A statement that no policy may be cancelled, invalidated, suspended, or subject to nonrenewal on account of any curable defect or violation

without prior demand in writing delivered to the Association to cure the defect or violation and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any owner, or Mortgagee;

- v. A statement that any “other insurance” clause in any policy exclude individual Owners’ policies from consideration, and
- vi. A statement that the Association will be given at least thirty (30) days’ prior written notice of any cancellation, substantial modification, or non-renewal.

In addition to the other insurance required by this Section, the Board shall obtain, as a Common Expense, worker’s compensation insurance, if and to the extent required by law, directors’ and officers’ liability coverage, if reasonably available, a fidelity bond or bonds on directors, officers, employees, and other Persons handling or responsible for the Association’s funds, and flood insurance, if reasonably available.

The amount of fidelity coverage shall be determined in the directors’ best business judgment but, if reasonably available, may not be less than one-sixth (1/6) of the annual Base Assessments on all Units, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days’ prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

**Section 2. Individual Insurance.** By virtue of taking title to a Unit subject to the terms of the Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket “all-risk” property insurance on the Unit(s) and structures constructed thereon meeting the same requirements as set forth in Section 1 of this Article V for insurance on the Common Area, unless either the Neighborhood in which the Units is located or the Association carries such insurance (which they are not obligated to do hereunder).

Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or reconstruct in which case the owner shall clear the Unit of all debris and ruins and thereafter the owner shall maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

### **Section 3. Damage and Destruction.**

Immediately after damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Properties. Repair or reconstruction, as used in the paragraph, means repairing or restoring the Properties to substantially the same condition in which they existed prior to the fire or other casualty, allowing for any changes or improvement necessitated by changes in applicable building codes.

- a) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Voting Members representing at least seventy-five (75%) of the Total Class "A" vote of the Association decide within sixty (60) days after the casualty not to repair or reconstruct.
- b) If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such funds or information shall be made available; provided, however, such

extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to Common Area shall be repaired or reconstructed.

- c) In the event that it should be determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the, affected portion of the properties shall be cleared of all debris and ruins and maintained by the Association, or the Neighborhood Association, as applicable, in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

**Section 4. Disbursement of Proceeds.** If the damage or destruction for which the proceeds of insurance policies held by the Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association and placed in a capital improvements account. In the event no repair or reconstruction is made, appropriate with the affected Owner or Owners and their Mortgagee(s), as their interest may appear, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of any Mortgagee of a Unite and may be enforced by such Mortgagee.

**Section 5. Repair and Reconstruction.** If the damage or destruction to the Common Area for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Voting Members, levy a special assessment against those Owners of Units responsible for the premiums for the applicable insurance coverage under Section 1 of this Article. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

## **Article VI**

### **No Partition**

Except as is permitted in the Declaration or amendments thereto, there shall be no judicial partition of the Common Area or any part thereof, nor shall any Person acquiring any interest in the Properties or any part thereof seek any judicial partition unless the Properties have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

## **Article VII**

### **Condemnation**

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least sixty-seven percent (67%) of the total Class "A" vote in the Association and of the Declarant, as long as the Declarant owns any property described on Exhibits "A" and "B") by any authority having the power of condemnation or eminent domain, each owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" of this Declaration, and Voting Members representing at least seventy five percent (75%) of the total Class "A" vote of the Association shall otherwise agree,

the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area to the extent lands are available, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply.

If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such aware or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

## **Article VIII**

### **Annexation of Additional Property**

#### **Section 1. Annexation Without Approval of Class "A" Membership.**

Declarant shall have the unilateral right, privilege and option, from time to time at any time until all property described on Exhibit "B" has been subjected to this Declaration subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in Exhibit "A" attached hereto. Such annexation shall be accomplished by filing in the Clerk's Office a Supplemental Declaration annexing such property. Such Supplemental Declaration shall not require the consent of Voting Members but shall require the consent of the owner of such property, if other than Declarant.

Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Declarant shall have the unilateral right to transfer to any other Person the right, privilege, and option to annex additional property which is herein reserved to Declarant,



provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

**Section 2. Acquisition of Additional Common Area.** Declarant may convey to the Association additional real estate, improved or unimproved, located within the properties described in Exhibits "A" or "B", which upon conveyance or dedication to the Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its Members.

**Section 3. Withdrawal of Property.** Declarant reserves the unilateral right to amend this Declaration at any time so long as it holds an unexpired option to expand the community pursuant to the Article VIII, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Properties then owned by the Declarant, its affiliate, or the Association from the provisions of this Declaration; provided such withdrawal is not unequivocally contrary to the overall uniform scheme of development for the Properties.

**Section 4. Additional Covenants and Easements.** The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners thereof and obligating such owners to pay the costs incurred by the Association through Neighborhood Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the Owners(S) of such property, if other than the Declarant.

**Section 5. Amendment.** This Article shall not be amended without the prior written consent of Declarant, so long as the Declarant owns any property described in Exhibits “A” or “B” hereof.

## **Article IX**

### **Rights and Obligations of the Association**

**Section 1. Common Area.** The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including, without limitation, furnishings and equipment related thereto and common landscaped areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof and consistent with the Community-Wide Standard.

**Section 2. Personal Property and Real Property for Common Use.** The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests within the Properties conveyed to it by the Declarant.

**Section 3. Rules and Regulations.** The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions for violations of this Declaration, the By-Laws, or rules and regulations of the Association may include reasonable monetary fines and suspension of the right to vote and the right to use any recreations facilities in the Common Area. In addition, the Association, shall have the right to exercise self-help to cure violations, and shall be entitled to

suspend any services provided by the Association to an Owner or such Owner's Unit in the event that such Owner is more than thirty (30) days delinquent in paying any assessment or other charge due to the Association. The Board also shall have the power to seek relief in any court for violations or to abate nuisances. Imposition of sanctions shall be as provided in the By-Laws of the Association.

The Association, through the Board, by contract or other agreement, shall have the right to enforce county and city ordinances, if applicable, and may permit Chesterfield County, Virginia to enforce ordinances on the Properties for the benefit of the Association of its Members.

**Section 4. Implied Rights.** The Association may exercise any other right privilege given to it expressly by this Declaration of the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

**Section 5. Governmental Interests.** For so long as the Declarant owns any property described on Exhibits "A" or "B", the Association shall permit the Declarant authority to designate sites within the Properties, which may include Common Area owned by the Association, for fire, police, water, and sewer facilities, public schools and parks, and other public facilities.

## **Article X**

### **Assessments**

**Section 1. Creation of Assessments.** There are hereby created assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors, to be commenced at the time and in the

manner set forth in Section 9 of the Article. There shall be two (2) types of assessments: (a) Base Assessments to fund Common Expenses for the benefit of all Members of the Association; and (b) Special Assessments as described in Section 4 below. Each Owner, by acceptance of a deed or recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

Base Assessments shall be levied equally on all Units, except that Unimproved Units owned by IBM shall not be assessed.

All assessments, together with interest (at a rate equal to the greater of twelve percent (12%) per annum, or the legal rate of interest as defined in Section 6.1-330.53 of the Code of Virginia, as the same may be amended from time to time) as computed from the date of delinquency first occurs, late charges, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Unit against which each assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorney's fees, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose, and, in the event of a transfer of title, his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance, except no first Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon demand at any time, furnish to any Owner liable for any type of assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid as to any particular Unit. Such certificate shall be conclusive evidence of payment to the Association of any assessments therein stated to have been paid. The Association may require the advance payment of a reasonable processing fee which initially shall be Twenty-five dollars (\$25.00), subject to adjustment by the Board for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless the Board otherwise provides, the Base Assessment shall be due and payable in advance of the first day of each fiscal year.

**Section 2. Non-Payment and Remedies.** If any owner is more than forty (40) days delinquent in the payment of any installment of any assessment contemplated by this Declaration, the entire unpaid balance of the assessment may be declared immediately due and payable by the Board of Directors. Additionally, any assessment or installment thereof, not paid within ten (10) days after the date upon which it is due shall be assessed a late charge of the greater of either ten dollars (\$10.00) or ten percent (10%) of the amount of the assessment due; provided, however, if such late charge shall ever be deemed to be in excess of that which is permitted under applicable law, interest shall accrue on such unpaid amount at the highest rate permitted by applicable law. Moreover, if any assessment, or any installment thereof, is not paid within forty (40) days after the date upon which it is due, the Association may bring an action at law against the owner's property to which it attaches. The Association shall be entitled to collect all fees and costs of collection, including attorneys' fees, and every Owner by accepting a deed of property in Jordan Crossing, whether so expressed in the deed or not, covenants and agrees to pay the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, and facilities thereon, or abandonment of his property.

No Owner may waive or otherwise exempt himself from liability for the liability for the assessments provided for herein, including, by the way of illustration and not limitation, by non-use of Common Areas or abandonment of the Unit. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the

By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may: (i) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the annual, special and specific assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of the Declarant; or (ii) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Properties. The Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Area or any of the improvements maintained by the Association shall be given in connection with such loan.

The Association is specifically authorized to enter into subsidy contracts or contract for “in kind” contribution of services or materials or a combination of services and materials with Declarant or other Persons for the payment of some portion of the Common Expenses.

**Section 3. Computation of Base Assessment.** It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budge shall include a capital contribution establishing a reserve fund in accordance with a budge separately prepared, as provided in Section 6 of this Article.

The Base Assessments to be levied against each Unit for the coming year shall be set at a level which is reasonably expected to produce total income to the Association equal to the total budgeted Common Expenses, including reserves.

Notwithstanding the above, the Board may, in its sole discretion, reduce the Base Assessments by taking into account:

- a) Other sources of funds available to the Association; and
- b) Assessments to be levied upon additional Units reasonably anticipated to become subject to assessment during the fiscal year.

If any recreational facilities on the Common Area are owned or leased by the Association, the determination of the annual recreational facilities expenses shall expand a separate line item on the budget.

The Board shall cause a copy of the Common Expense budget and notice of the amount of the Base Assessment to be levied against each Unit for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Voting Members by Voting Members or their alternates representing at least a majority of the total Class "A" vote in the Association, and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Voting Members.

Notwithstanding the foregoing, however, in the event the proposed budget is disapproved, or the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

#### **Section 4. Special Assessments.**

- a) Entire Membership. The Association may levy Special Assessments from time to time provided such assessment receives the affirmative vote or written consent of Voting Members or their alternates representing a majority of the total Class “A” votes in the Association and the affirmative vote or written consent of the Class “B” Member, if such then exists. Special Assessments levied against the entire membership shall be allocated to the Units equally unless the Board determines that another method is more equitable. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines. Notwithstanding the above, any Special Assessments, the payment of which exceeds ten percent (10%) of the Base Assessment for the year in which the Special Assessment is levied, whether singularly or when combined with prior special Assessments in the same fiscal year, must have the consent of more than two-thirds (2/3) of the votes entitled to be cast by all of the Members of the Association.
- b) Less Than All Members. The Association may levy a Special Assessment against any Member individually and against such Member’s Unit to reimburse the Association for costs incurred in bringing a Member and his Unit into compliance with the provisions of the Declaration, any amendments thereto, the Articles, the By-Laws, or the Association rules, which Special Assessment may be levied up the vote of the Board after notice to the Member and any opportunity for hearing. The Association also may levy a Special Assessment equally against the Units in any neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, or the Association rules and regulations, which Special Assessment may be levied upon the vote of the Board after notice to the senior officer of the Neighborhood and an opportunity for a hearing.



**Section 5. Lien for Assessment.** Upon recording of a notice of lien on any Unit, there shall exist a perfected lien for unpaid assessments prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure in accordance with Virginia law.

The Association, acting on behalf of the Owners, shall have the power to bid for the Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien security the same.

**Section 6. Reserve Budget and Capital Contribution.** The Board of Directors shall annually prepare a reserve budget to take into account the number and nature of replacement assets, the expected life of each asset, and the expected repair or replacement. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual Base Assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in Sections 2 and 3 of this Article.

**Section 7. Date of Commencement of Assessments.** The obligation to pay the assessments provided for herein shall commence at closing upon conveyance of the Unit.

**Section 8. Subordination of the Lien to First Mortgages.** The lien of assessments, including interest, late charges (subject to the limitations of Virginia law), and cost (including attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Unit. The sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to judicial or nonjudicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from lien rights for any assessments thereafter becoming due. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns.

**Section 9. Capitalization of Association.** Upon acquisition of record title to a Unit by the first purchaser thereof other than the Declarant or an owner who purchases solely for the purpose of constructing a dwelling thereon for resale, a contribution shall be made by or on behalf of purchaser to the working capital of the Association in an amount of Two Hundred Dollars (\$200.00). This amount shall be in addition to, not in lieu of, the annual Base Assessment levied on the Unit and shall not be considered an advance payment of any portion thereof. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to the terms of this Declaration and the By-Laws.

**Section 10. Exempt Property.** Notwithstanding anything to the contrary herein, the following property shall be exempt from payment of Base Assessments and Special Assessments:

- a) All Common Area; and
- b) All property dedicated to and accepted by any governmental authority or public utility, including without limitation, public schools, public streets, and public parks, if any.

## **Article XI**

### **Architectural Standards**

No structure shall be placed, erected or installed upon any Unit, no construction (which term shall include within its definition staking, clearing, excavation, grading and other site work), no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the appropriate committee has been obtained pursuant to Section 1 and 2 below. The Board of Directors may establish reasonable fees to be charged by the committees on behalf of the Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of an architect or building designer.

This Article shall not apply to the activities of the Declarant, nor to construction or improvements or modifications to the Common Area by or on behalf of the Association.

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the committees established in Sections 1 and 2 of this Article XI. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

**Section 1. New Construction Committee.** The New Construction Committee ("NCC") shall consist of at least two (2) individual appointed by the Declarant and shall have exclusive jurisdiction over all original construction on any portion of the Properties. Until one hundred percent (100%) of the Properties have been developed and conveyed to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the NCC, who shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the NCC, who shall serve and may be removed at the discretion of the Board of Directors. The members of the NCC may include architects, engineers and other persons who are not members of the Association.

**Section 2. Modifications Committee.** The Board of Directors may establish a Modifications Committee ("MC") to consist of at least two (2) and no more than five (5) persons, all of whom shall be appointed by, and shall serve at the direction of, the Board of Directors. Members of the MC may include architects or similar professionals who are not Members of the Association. The MC, if established, shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing Units or structures containing Units and the open space, if any, appurtenant thereto. The MC may, however, delegate this authority to the appropriate board or committee of any Neighborhood Association subsequently created or subsequently subjected to this Declaration so long as the MC has determined that such board or committee has in force review and enforcement practices, procedures, and appropriate standards at least equal

to those of the MC. Such delegation may be revoked, and jurisdiction reassumed at any time by written notice. The NCC shall have the right to veto any action taken by the MC which the NCC determines, in its sole discretion, to be inconsistent with the guidelines promulgated by the NCC.

The Modifications Committee shall promulgate detailed standards and procedures governing its areas of responsibility and practice, consistent with those of the NCC. In addition, the following shall apply: plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the MC for approval as to quality of workmanship and design as to harmony of external design with existing structures, location in relation to surrounding structures, topography, and finish grade elevation.

Nothing contained herein shall be construed to limit the right of an owner to remodel the interior of his Unit, or to paint the interior of his Unit any color desired; provided, modifications or alterations to the interior of screened porches, patios, and similar portions of a Unit visible from outside the Unit shall be subject to approval. In the event that the MC fails to approve or to disapprove such plans or to request additional information reasonably required within forty-five (45) days after submission, the owner shall notify the MC by certified mail that the owner has received no response to his submission. In the event that the MC fails to approve or to disapprove the plans within fifteen (15) days after receipt of such notification, the plans shall be deemed approved.

**Section 3. No Waiver of Future Approvals.** The approval of either the NCC or MC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

**Section 4. Variance.** The NCC may authorize variance from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate, and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

**Section 5. Compliance With Guidelines.** Any contractor, subcontractor, agent, employee or other invitee of an owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the NCC or MC may be excluded by the Board from the Properties without liability to any person.

**Section 6. No Liability.** Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and neither the NCC nor the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board of Directors, any committee, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner of quality of approved construction on or modifications to any Unit.

## **Article XII**

### **Use Restrictions**

The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association, as may more particularly be set forth in this Declaration and amendments hereto. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of the Properties, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. Such regulations and use restrictions shall be binding upon all owners, occupants, invitees and licensees, if any, until and unless overruled, cancelled or modified in a regular or special meeting of the Association by the vote of Voting Members representing a majority of the total Class "A" votes in the Association and by the Class "B" Member, so long as such membership shall exist.

**Section 1. Signs.** A single "for sale" or "for lease" sign shall be permitted on any unit being offered for sale or for lease, provided it does not exceed two (2) feet by three (3) feet in size and does not stand higher than five (5) feet from the ground. No other signs of any kind shall be erected within the Properties, including any Unit if visible from outside the Unit, without the written consent of the Board of Directors, except entry and directional signs installed by Declarant or the Association.

If permission is granted to any Person to erect a sign within the Properties, the Board reserves the right to restrict the size, color, lettering and placement of such sign. The Board of Directors and the Declarant shall have the right to erect signs as they, in their discretion, deem appropriate. Except as provided above, no signs, banners or similar items advertising or providing direction information with respect to activities being conducted within or outside the Properties shall be permitted to be displayed or posted within the Properties.

## **Section 2. Parking and Prohibited Vehicles.**

- a) Parking. Vehicles shall be parked only in the garage or driveway serving the Unit, or in such other paved areas as have been approved by the Board of Directors for parking vehicles. A maximum of two (2) occupant vehicles may be parked outside of the garage, if any, serving the Unit. For purposes of this provision, a vehicle shall be considered an “occupant vehicle” if it is parked on the Unit four (4) or more hours per day, for (4) or more days in any seven (7) day period. No garage shall be enclosed, modified or otherwise used so as to reduce its capacity for parking vehicles. This section does not apply to the Declarant for sales or model Units. Garage doors shall remain closed except during periods of ingress or egress or when being actively used by the owner or occupant.
- b) Prohibited Vehicles. Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any designated by the Board. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Properties except within enclosed garages.
- c) Inoperable Vehicles. Vehicles that become inoperable while on the Properties must be removed within seventy-two (72) hours thereof. For purposes of this section, a vehicle shall be considered “stored” if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the properties during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Areas. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed.



**Section 3. Occupants Bound.** All provisions of the Declaration, By-Laws, any applicable Supplemental Declaration, and any rules and regulations promulgated pursuant thereto which govern the conduct of owners and which provide for sanctions against owners shall also apply to all occupants, guests and invitees of any Unit. Every Owner shall cause all occupants of his or her Unit to comply with the Declaration, By-Laws, any applicable Supplemental Declaration, and all rules and regulations of the Association. Every Owner shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto.

**Section 4. Animals and Pets.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats, or other usual and common household pets may be permitted in accordance with rules and regulations established by the Association.

**Section 5. Quiet Enjoyment.** No portion of the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious, illegal, or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any portion of the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties. No speaker, horn,

whistle, bell or other sound device, except alarm devices used exclusively for security purposes, shall be installed or operated on any Unit. The use and discharge of firecrackers and other fireworks is prohibited within the Properties.

**Section 6. Unsightly or Unkempt Conditions.** It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Unit. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly or disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties. Notwithstanding the above, the disassembly and assembly of motor vehicles to perform repair work shall be permitted provided such activities are not conducted on a regular or frequent basis and are either conducted entirely within an enclosed garage or, if conducted outside, are begun and completed within twelve (12) hours.

**Section 7. Antennas.** All exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind, unless completely contained within the dwelling on the Unit so as not to be visible from outside the dwelling, shall comply with the requirements of the Design Guidelines. The Declarant and/or the Association shall have the right, without obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission of television, radio, satellite or other signals for the benefit of all or a portion of the Properties.

**Section 8. Garbage Cans, Tanks, Etc.** All garbage cans, mechanical equipment, yard equipment and other similar items on Units shall be located adjacent to the Unit. All rubbish, trash, and garbage shall be stored in appropriate containers approved pursuant to Article XI hereof and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon.

**Section 9. Subdivision of Unit and Time Sharing.** No Unit shall be subdivided, or its boundary lines changed except with the prior written approval of the Board of Directors of the Association. Declarant, however, hereby expressly reserves the right to replat any Unit or Units owned by Declarant. Any such division, boundary line change, or re-platting shall not be in violation of the applicable subdivision and zoning regulations.

No unit shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Unit rotates among members of the program on a fixed or floating time schedule over a period of years.

**Section 10. Firearms.** The discharge of firearms within the Properties is prohibited. The term “firearms” includes “B-B” guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the By-Laws, the Association shall not be obligated to take action to enforce this Section.

**Section 11. Pools.** No above-ground swimming pool shall be erected, constructed or installed on any Unit. Jacuzzis, whirlpools, or spas shall be considered an above-ground pool for the purposes of this section unless located within an enclosed portion of the Unit.

**Section 12. Irrigation.** No sprinkler or irrigation systems of any type which draw upon water from creeks, streams, rivers, ponds, wetlands, canals or other ground or surface waters within the Properties shall be installed, constructed or operated within the Properties, except that the Declarant and the Association shall have the right to draw water from such sources for the purpose of irrigating the Area of Common Responsibility. All sprinkler and irrigations systems serving Units shall draw upon public water supplies only. Private irrigations wells are prohibited on the Properties.

**Section 13. Tents, Mobile Homes and Temporary Structures.** Except as may be permitted by the Declarant or the NCC during initial construction within the Properties, no tent, shack, mobile home, or other structure of a temporary nature shall be placed upon a Unit or any part of the Properties. In addition, party tents or similar temporary structures may be erected for a limited period of time for special events with prior written approval of the Board. No outbuildings shall be placed upon a Unit.

**Section 14. Drainage and Septic Systems.** Catch basins and drainage areas are for the purpose of natural flow of water only. No obstruction or debris shall be placed in these areas. No person other than the Declarant may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. Septic tanks and drain fields, other than those installed by or with the consent of the Declarant, are prohibited within the Properties. No Owner or occupant shall dump grass clippings, leaves or other debris, petroleum products, fertilizers or other potentially hazardous or toxic substances, in any drainage ditch, stream, pond or lake within the Properties.

**Section 15. Tree Removal.** No trees shall be removed, except diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article XI of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required, by the committee having jurisdiction, to replace the removed tree with one (1) or more comparable trees of such size and number, and in such locations, as such committee may determine necessary, in its sole discretion, to mitigate the damage.

**Section 16. Sight Distance at Intersections.** All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

**Section 17. Air Conditioning Units.** Any air conditioning unit installed in a Unit shall be located or screened so as not to be visible from any street within the Properties.

**Section 18. Lighting.** Except for traditional holiday decorative lights, which may be displayed for two (2) month prior and one (1) month after any commonly recognized holiday for which such lights are traditionally displayed, all exterior lights must be approved in accordance with Article XI of this Declaration.

**Section 19. Artificial Vegetation, Exterior Sculpture, and Similar Items.** No artificial vegetation shall be permitted on the exterior of any portion of the Properties. No exterior sculpture, foundations, birdhouses, birdbaths, other decorative embellishments or similar items shall be permitted unless approved in accordance with Article XI of the Declaration.

**Section 20. Energy Conservation Equipment.** No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any unit. No windmills, wind generators or other apparatus of generating power from the wind shall be erected or installed on any Unit.

**Section 21. Wetlands, Rivers and Other Water Bodies.** No use of the wetlands, rivers, lakes, ponds, streams, or other bodies of water within the Area of Common Responsibility, if any, including, without limitations, fishing, swimming, boating, playing, or use of personal flotation devices, shall be permitted without the prior approval of the Board of Directors; provided, if any such use is permitted, it shall be subject to the Declarant's and the Association's superior use rights as provided below and to all rules and regulations that may be promulgated by the Board of Directors.

No internal combustion engines shall be operated on any river, pond, or stream within the Area of Common Responsibility except by the Association

and/or the Declarant (for so long as it owns property that is or may be subjected to the Declaration), for purposes of maintenances and irrigation.

Notwithstanding the above, model boats with internal combustion engines may be operated during special events with prior approval of the Board of Directors.

The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams or other bodies of water within or adjacent to the Properties. No docks, piers, or other structures shall be constructed on or over any body of water within the Properties, except such as may be constructed by the Declarant or the Association.

**Section 22. Playground.** No jungle gyms, swing sets or similar playground equipment shall be erected or installed on any Unit without prior written approval of the Modifications Committee in accordance with Article XI hereof. Any playground or other play areas or equipment furnished by the Association or erected within the Properties shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

**Section 23. Fences.** No hedges, walls, dog runs, animal pens or fences of any kind shall be permitted on any Unit.

**Section 24. Business Use.** No garage sale, moving sale, rummage sale or similar activity and no trade or business may be conducted in or from any Unit, except that an Owner or occupant residing in a Unit may conduct business activities with the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve regular visitation of the Unit by clients, customer, suppliers or other business invitees or door-to-door solicitation of residents of the Properties, and (d) the business activity is consistent with the residential character of the Properties and does not constitute

a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

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 provider receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

Notwithstanding the above, the leasing of a Unit shall not be considered a trade or business within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant or conducted by a builder with approval of the Declarant, with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a time share or similar program.

**Section 25. On-Site Fuel Storage.** No on-site storage of gasoline, kerosene or fuel oils shall be permitted on any part of the Properties except that up to five (5) gallons of fuel may be stored on each Unit for emergency purposes and operation of lawn equipment and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

**Section 26. Golf Carts.** No gasoline-powered golf carts shall be operated within the Properties. All golf carts shall be powered by electricity or by similar non-combustion means.

## Section 27. Leasing of Units

- a) Definition. “Leasing”, for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity, or emolument.
- b) Leasing Provision.
- i. General. Units may be rented only in their entirety; no fraction or portion may be rented. All leases shall be in writing and shall be for an initial term of no less than thirty (3) days, except with the prior written consent of the Board of Directors. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within ten (10) days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the rules and regulations. The Board may adopt reasonable rules regulating leasing and subleasing.
  - ii. Compliance with Declaration, By-Laws and Rules and Regulations. Every Owner shall cause all occupants of his or her Unit to comply with the Declaration, By-Laws, any applicable Supplemental Declaration, and the rules and regulations adopted pursuant to the foregoing, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and the rules and regulations adopted pursuant to the foregoing.

**Section 28. Laws and Ordinances.** Every Owner and occupant of any Unit, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Properties and any violation thereof may be considered a violation of this Declaration; provided, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.



**Section 29. Single Family Occupancy.** No unit shall be occupied by more than a single family. For purposes of this restriction, except as otherwise required under Virginia law, a single family shall be defined as any number of persons related by blood, adoption or marriage living with not more than one (1) person who is not so related as a single household unit, and the household employees of either such household unit.

**Section 30. Water and Mineral Operations.** No oil or water drilling, oil or water development operations, oil refining, quarrying or mining operations of any kind shall be permitted on any Unit. No derrick or other structure designed for use in boring for water, oil, natural gas, or other minerals shall be erected and maintained or permitted on any Unit.

**Section 31. Doors and Windows.** No “burglar bars”, steel or wrought iron bars, or similar fixtures, whether designed for decorative, security or other purposes, shall be installed on the exterior of any windows or doors of any dwelling. No signs, numerals or other writing shall be written on or placed in the doors or windows of any dwelling, either temporarily or permanently, except that the Board may, in its discretion, permit house numbers to be written temporarily on a singly window of a dwelling while occupants are moving in, provided such numbers are removed within seventy-two (72) hours after the occupants have taken occupancy. All windows of an occupied dwelling on a Unit which are visible from the street or other units shall have draperies, curtains, blinds or other permanent interior window treatments, and all portions thereof which are visible from outside the dwelling shall be white or off-white in color, unless otherwise approved in writing by the Board. Sheets or similar temporary window treatments may be used for a short time after taking occupancy of a dwelling, provided they are removed and replaced with permanent window treatments within a reasonable time after taking occupancy of the dwelling, as determined in the sole discretion of the Board of Directors.

**Section 32. Utility Lines.** No overhead utility lines, including lines for cable television, shall be permitted within the Properties, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.

## **Article XIII**

### **General Provisions**

**Section 1. Term.** The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or the owner of any property subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

**Section 2. Amendment.** Prior to the conveyance of the first Unit, Declarant may unilaterally amend this Declaration. After such conveyance, the Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is: (a) to effect technical deletions, additions and revisions to the Declaration but which do not alter the substantive rights of those Owners or Mortgagees; (b) necessary to bring any provision hereof into compliance with any applicable government statutes, rule or regulation, or judicial determination; (c) necessary to enable any reputable title insurance company to issue title insurance coverage on the Units; (d) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Units; or (e) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units,

provided, however, any such amendment shall not adversely affect the title to any unit unless the Owner shall consent thereto in writing. So long as it still owns property described in Exhibits "A" or "B" for development as part of the Properties, the Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any owner.

Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing seventy-five percent (75%) of the total Class "A" votes in the Association, including seventy-five percent (75%) of the Class "A" votes held by members other than the Declarant, and the consent of the Class "B" Member, so long as such membership exists. In addition, the approval requirements set forth in Article XIV hereof shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the Clerk's Office.

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

No amendment may remove, revoke or modify any right or privilege of Declarant without the written consent of Declarant or the Assignee of such right or privilege.

**Section 3. Indemnification.** The Association shall indemnify every officer, director and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, sui or other proceeding

(including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director or committee member.

The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

**Section 4. Easements for Utilities, Etc.** There is hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B" of this Declaration, the Association, and the designees of each (which may include, without limitation, Chesterfield County, Virginia, and any utility), blanket easements upon, across, over and under all of the Properties for the purpose of replacing, repairing and maintaining cable television systems master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, lakes, ponds, wetlands, drainage systems, street lights, signage and all utilities, including, but not limited to, water sewers, meter boxes, telephones, gas, and electricity, and for the purpose of installing any of the foregoing on property which it owns or within easements designated or such purposes on recorded plats of the Properties.

Notwithstanding anything to the contrary herein, this easement shall not entitle the holders to construct or install any of the foregoing systems, facilities or utilities over, under or through any existing dwelling on a Unit, and any damage to a Unit resulting from the exercise of this easement shall promptly be repaired. The exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry into any Unit shall be made only after reasonable notice to the Owner or occupant thereof.

Without limiting the generality of the foregoing, there are hereby reserved for the local water supplier, electric company and natural gas supplier easements across all Units and the Common Areas for ingress, egress, installation, reading, replacing, repairing and maintaining utility meters and boxes. The exercise of this easement shall not extend to permitting entry into the dwelling on any Unit. Notwithstanding anything to the contrary contained in the Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties, except as may be approved by the Association's Board of Directors or as provided by Declarant.

Should any entity furnishing a service covered by the general easement herein provided requires a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Properties without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties.

The Board shall have, by two-thirds (2/3) vote, the power to dedicate portions of the Common Area to Chesterfield County, Virginia, or to any other local, state or federal governmental entity, subject to such approval requirements as may be contained in Article SIV, Section 2 of this Declaration.

**Section 5. Easement for Overhanging Roofs and Eaves.** Each Unit upon which there is a party wall or upon which a wall of a residence is permitted to abut the side boundary line of the Unit and its Owner are declared to have an

easement and the same is granted by the Declarant, over each adjoining Unit and Common Area, as the case may be, for overhanging roofs and eaves attached to improvements on the Unit, provided, however, that such encroachments may not exceed one (1) foot. No such easement shall be created in favor of a Unit if the encroachment occurred due to the willful misconduct of the Owner.

**Section 7. Easements for River and Pond Maintenance and Flood Water.** Declarant reserves for itself and its successors, assigns and designees the non-exclusive right and easement, but not the obligation, to enter upon the rivers, lakes, ponds, streams and wetlands located within the Area of Common Responsibility (a) to install, keep, maintain and replace pumps thereon in order to provide water therefrom for the irrigation of any of the Area of Common Responsibility, (b) to construct, maintain and repair any wall, dam or other structure retaining water therein and (c) to remove trash and other debris therefrom and fulfill their maintenance responsibility as provided in this Declaration. Declarant's rights and easements provided in this Section 7 shall be transferred to the Association at such time as Declarant shall cease to own property subject to the Declaration, or such earlier times as Declarant may decide, in its sole discretion and transfer such rights by a written instrument.

The Declarant, the Association and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of any of the rivers, lakes, ponds, streams or wetlands to the extent reasonably necessary to exercise their rights and responsibilities under this Section. There is further reserved herein and hereby, for the benefit of Declarant, the Association and their designees, a perpetual, non-exclusive right and easement of access and encroachment over Common Areas and Units (but not the dwellings thereon) adjacent to or within fifty (50) feet of river banks, lakes, ponds and streams within the Properties, in order: (a) to temporarily flood and back water upon and maintain water over such portions of the Properties; (b) to fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the ponds, streams and wetlands within the Area of Common Responsibility; (c) to maintain and landscape the slopes and banks pertaining to such rivers, lakes, ponds,

streams and wetlands; and (d) to enter upon and across such portions of the Properties for the purpose of exercising its or their rights under this section.

**Section 8. Easements to Serve Additional Property.** The Declarant and its duly authorized agents, representative and employees, as well as its successors, assigns, licensees and mortgagees, shall have and there is hereby reserved an easement over the Common Areas for the purposes of enjoyment, use, access and development of the Additional Property described in Exhibit “B” attached hereto and by this reference incorporated herein, whether or not such Additional Property is made subject to this Declaration. This easement includes but is not limited to a right of ingress and egress over the Common Areas for construction purposes and for tying in and installation of roads, parking facilities, and utilities on the Additional Property.

Declarant agrees that it, its successors or assigns, shall be responsible for any damage caused to the Common Areas as a result of vehicular traffic connected with development of the Additional Property.

**Section 9. 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 10. Right of Entry.** The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security and safety reason, to perform maintenance pursuant to Article IV hereof, and to inspect for the purpose of ensuring compliance with this Declaration, the By-Laws, any Supplemental Declaration and the rules of the Association; provided, nothing herein shall authorize any person to enter any dwelling or other building constructed on a Unit without permission of the owner unless reasonably believed to be necessary to avoid an imminent threat of personal injury or personal damage. This right may be exercised by the Association’s Board of Directors, any agent or employee of the Association acting with the authorization of the Board of Directors, and all policemen, firemen, ambulance personnel, and

similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter a Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after request by the Board.

**Section 11. Perpetuities.** If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, and unless a longer period is permitted under Virginia law, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

**Section 12. Use of the Words “Jordan Crossing” and “Innovative Builders of Midlothian, LLC”.** No Person shall use the words “Jordan Crossing” and “Innovative Builders of Midlothian, LLC” or any derivative thereof in any printed or promotional material without the prior written consent of the Declarant. However, Owners may use the terms in printed or promotion matter where such term is used solely to specify that particular property is located within Jordan Crossing and the Association shall be entitled to use the words “Jordan Crossing” and “Innovative Builders of Midlothian, LLC” in its name.

**Section 13. Compliance.** Every owner and occupant of any Unit shall comply with all lawful provisions of this Declaration, the By-Laws, and the rules and regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in a proper case, by any aggrieved Unit Owner or Owner. In addition, the Association may avail itself of any and all remedies provided in the Declaration or the By-Laws.



**Section 14. No Obligation for Recreational Facilities.** The Association, Declarant, or any successor Declarant may, but shall not be obligated to, construct or maintain any recreational facilities. The Association, Declarant or any successor Declarant make no representations or warranties concerning the construction or maintenance of such facilities, and shall not be liable for any loss, damage or claim for failure to provide such recreational facilities.

**Section 15. Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, however, and neither the Association, Declarant, nor any successor Declarant shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and occupants of any Unit, tenants, guests and invitees of any owner, as applicable, acknowledge that the Association, its Board of Directors, Declarant, or any successor Declarant and the new construction and modification committees do not represent or warrant any fire protection system, burglar alarm system or other security systems, measures, or other security system designated by or installed by the Declarant may not be compromised or circumvented, that any fire protection or burglar alarm systems or other security systems or measures will prevent loss by fire, smoke, burglary, theft, hold-up or otherwise, nor that fire protection or burglar or otherwise, nor that fire protection or burglar alarm systems or other security systems or measures will in all cases provide the detection or protection for which the system is designated or intended. Each Owner and occupant of any Unit, and each tenant, guest and invitee of an Owner, as applicable, acknowledges and understands that the Association, it Board of Directors and committees, Declarant or any successor Declarant are not insurers and that each Owner and occupant of any Unit and each tenant, guest and invitee of any Owner assumes all risks for loss or damage to persons, to Units and to the contents of Units and further acknowledges that the Association, it Board of Directors and committees, Declarant, or any successor Declarant have made no representations

or warranties nor has any Owner, occupant, tenant, guest, or invitee relied upon any representation or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose relative to any fire and or burglar alarm systems or other security systems or measures recommended or installed or any security measures undertaken within the Properties.

**Section 16. Notice of Sale or Transfer of Title.** In the event that any Owner desires to sell or otherwise transfer title to his or her unit, such Owner shall give the Board of Directors at least seven (7) days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board of Directors may reasonable require. Until such written notice is received by the Board of Directors, the transferor shall continue to be jointly and severally responsible for all obligations of the Owner of the Unit hereunder, including payment of assessments, notwithstanding the transfer of title to the Unit.

## **Article XIV**

### **Mortgage Provisions**

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

**Section 1. Notices of Action.** An institutional holder, insurer or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the street address of the Unit to which its Mortgage relates, therefore becoming an “Eligible Holder”), will be entitled to timely written notice of:

- a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- b) Any delinquency in the payment of assessments or charges owed on a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Declaration or By-Laws relating to such Unit or the owner or occupant thereof which is not cured within (60) days;
- c) Any lapse, cancellation or material modification of any insurance policy maintained by the Association; or
- d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

## **Section 2. Actions Requiring Approval of Eligible Mortgage Holders.**

To the extent possible under Virginia law:

- a) Any restoration or repair of the Properties after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.
- b) Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of Voting members representing sixty-seven percent (67%) of the total Association vote and the approval of the Eligible Holders of first Mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to Mortgages held by such Eligible Holders are allocated.
- c) Any election to terminate the Association under circumstances other than substantial destruction or a substantial taking in condemnation shall require the consent of Voting Members representing at least sixty-seven percent (67%) of the Class "A" votes and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of the Eligible

Holders of first Mortgages on Units to which at least sixty-seven percent (67%) of the votes of Units subject to a Mortgage are allocated.

d) Any material amendment to the Declaration, By-Laws, or Articles of Incorporation of the Association shall require the consent of Voting Members representing at least sixty-seven percent (67%) of the Class "A" votes and of the Declarant, so long as it owns any land subject to this Declaration, and the approval of Eligible Holders of first Mortgages on Units to which at least fifty-one percent (51%) of the votes of Units subject to a Mortgage held by an Eligible Holder are allocated. An amendment which changes the provisions for any of the following shall be considered material:

- i. Voting rights;
- ii. Assessments, assessment liens, or subordination of such liens;
- iii. Reserves for maintenance, repair, and replacement of the Common Area;
- iv. Responsibility for maintenance and repair of the Properties;
- v. Rights to use the Common Area;
- vi. Boundaries of any Unit;
- vii. Expansion or contraction of the Properties or the addition, annexation, or withdrawal of Properties to or from the Association;
- viii. Insurance or fidelity bonds;
- ix. Leasing of Units;
- x. Imposition of any right of first refusal or similar restriction of the right of any owner to sell, transfer, or otherwise convey his or her Unit;
- xi. Establishment of self-management by the Association where professional management has been required by an Eligible Holder; or
- xii. Any provisions included in the Declaration, By-Laws or Articles of Incorporation which are for the express benefit of holders, guarantors or insurers of first Mortgages on Units.

**Section 3. Additional Requirements.** So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least sixty-seven percent (67%) of the

first Mortgagees or Voting members representing at least sixty-seven percent (67%) of the total Association vote entitled to be cast thereon consent, the Association shall not:

- a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);
- b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner of a Unit (a decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Properties regarding assessments for Neighborhoods or other similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Declaration);
- c) By act or omission change, waive or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Units and of the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);
- d) Fail to maintain insurance, as required by this Declaration; or
- e) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and First Mortgagees making such payment shall be entitled to immediate reimbursement from the Association.

**Section 4. No Priority.** No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

**Section 5. Notice to Association.** Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such owner's Unit.

**Section 6. Amendment by Board.** Should the Federal National Mortgage Association or the Federal Home loan Mortgage corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the owners, may cause an amendment to this Article to be recorded to reflect such change.

**Section 7. Applicability of Article XIV.** Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Virginia law or any of the acts set out in this Article.

**Section 8. Failure of Mortgagee to Respond.** Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

## Article XV

### Declarant's Rights

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein or in the By-Laws, as applicable, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Clerk's Office. Nothing in the Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary, so long as construction and initial sale of Units shall continue, it shall be expressly permissible for Declarant and any builder designated by declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Units, including, but not limited to, business offices, signs, model units, and sales offices, and the Declarant and such designated builder(s) shall have easements for access to and use of such facilities. The right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to use Units owned by the Declarant and any clubhouse or community center which may be owned by the Association, as models and sales offices, respectively.

So long as Declarant continues to have rights under this paragraph, no Person shall record any declaration of covenants, conditions and restrictions or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions or declarations of

condominium or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) twenty (20) years from the Date this Declaration is recorded, or (b) upon recording of transfer of all Units as shown on "Exhibit A".



IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

DECLARANT: Innovative Builders of Midlothian, LLC  
a Virginia limited partnership

By: \_\_\_\_\_

Kevin J. Sanford  
Managing Partner

COMMONWEALTH OF VIRGINIA  
COUNTY OF CHESTERFIELD, to wit:

I, \_\_\_\_\_, a Notary Public in and for the jurisdiction aforesaid, do certify that the foregoing Declaration of Covenants, conditions and Restrictions was executed and acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by Kevin J. Sanford as Managing Partner of Innovative Builders of Midlothian, LLC, a Virginia limited partnership, on behalf of such partnership.

My commission expires:

\_\_\_\_\_  
Notary Public

Exhibits

- A – Submitted Plat (without clubhouse)
- B – Submitted Plat (with clubhouse)
- C – By-Laws

## **EXHIBIT A**

### **Submitted Plat (without clubhouse)**

Plat on following page.



## **EXHIBIT B**

### **Submitted Plat (with clubhouse)**

Plat on following page.



# EXHIBIT C

## By-Laws

### Article I

**Section 1. Annual Meeting.** The first Annual Meeting of the Members shall be held within twelve (12) months from the date of the incorporation of the Association, subsequent meeting of the members shall be held on the first Monday in January of each year. If that day is a legal holiday, the annual meeting shall be held on the next succeeding day not a legal holiday.

**Section 2. Other Meetings.** All meetings of the members shall be held at the times or places fixed by the Board of Directors. The time and place shall be stated in the Notice or Waiver of Notice of each meeting. Meetings of the members shall be held whenever called by the President or the Secretary, by a majority of the Directors, or upon the written request of the members who are entitled to cast one-fourth (1/4) of all the votes of the Type A membership.

**Section 3. Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, or electronically at least fifteen (15) days (but no more than sixty (60) days) before such meeting to each member entitled to vote, addressed to the member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of the notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**Section 4. Quorum.** The holders of 30% of the votes of each class of membership entitled to vote shall constitute a quorum at any meeting of the

members. Less than a quorum may adjourn the meeting to a fixed time and place, no further notice of any adjourned meeting being required.

**Section 5. Conduct of Meetings.** The President shall preside over all meetings of the Members. If he or she is not present, a Chairman shall be elected by the meeting. The Secretary of the Association shall act as Secretary of all the meetings if he or she is present. If he or she is not present, the Assistant Secretary shall act as Secretary, and if her or she is not present, the Chairman shall appoint a Secretary of the meeting. The Chairman of the meeting may appoint one or more inspectors of the election to determine the qualification of voters, the validity of proxies, and the results of ballots. Parliamentary Rules utilizing *Roberts Rules of Order* shall prevail.

**Section 6. Voting.** At every meeting of the Members, voting rights shall be afforded as outlined in Article III of the Covenants, Conditions and Restrictions of Jordan Crossing Homeowners Association, Inc. The vote of the Members representing fifty-one percent (51%) of the total of the votes at the meeting, in person or by proxy, calculated as aforesaid, shall be necessary to decide any question brought before such meeting, unless the question is one upon which, by the express Declaration or of these By-Laws, a different vote is required, in which case such express provision shall govern and control. The vote for any membership which is owned by more than one person may be exercised by any of the co-owners present at any meeting unless any objection or protest by any other owner of such membership is noted at such meeting. In the event all of the co-owners of any membership who are present at any meeting of the members are unable to agree on the manner in which the votes for such membership shall be cast on any particular questions, then such vote shall be counted as a fraction of one vote in proportion to the total number of co-owners of a membership for purposes of deciding that question. In the event any membership is owned by a corporation, then the vote for any such membership shall be cast by a person designated in a certificate signed by the President or any Vice President of such corporation and attested by the Secretary or an Assistant Secretary of such corporation and filed with the Secretary of the Association, prior to or during the

meeting. The vote for any membership which is owned by a trust or partnership may be exercised by an trustee or partner thereof, as the case may be, and, unless any objection or protest by any other such trustee or partner is noted at such meeting the Chairman of such meeting shall have no duty to inquire as to the authority of the person casting such vote or votes. No Type A Member shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association.

**Section 7. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot. No proxy shall be valid after eleven (11) months from its date, unless otherwise provided in the proxy.

## **Article II**

### **Board of Directors; Selection; Term of Office**

**Section 1. Number.** The affairs of the association shall be managed by a Board of Directors initially consisting of three (3) natural persons. During the declarant control period, the declarant shall designate the members of the board of directors and the term that each shall serve as a member of the Board of Directors.

Members of the Board of Directors need not be members of the Association.

**Section 2. Election of Board of Directors.** Once the declarant control period ends or at the time the declarant relinquishes to the Association the right to elect the members of the Board of Directors which every event occurs first, the election of the Board of Directors shall take place as follows:



Each type A and type B member (if applicable) shall cast the total number of votes to which he/she is entitled for each vacancy on the Board of Directors cumulative voting shall not be allowed. Each director shall be elected by a majority of those members voting.

**Section 3. Term of Office.** At the first annual meeting in which Directors are elected, by the Members, the Members shall elect one (1) Director for a term of three (3) years, one (1) Director for a term of two (2) years, and the remaining Director(s) for a term of one (1) year; and at each annual meeting thereafter, the Members shall elect a Director to each vacancy for a term of three (3) years.

**Section 4. Removal.** After the first annual meeting of the Members, at which time the Directors are elected by the members, any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. Prior to the first annual meeting of the Members any Director may be removed from the Board, with or without cause, by the Declarant. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

**Section 5. Compensation.** No director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

**Section 6. Action Taken Without a Meeting.** The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors and such approval is filed with the minutes of the proceedings of the Board of Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

## Article III

### Board of Directors

**Section 1. Number, Election and Terms.** The Board of Directors shall be elected at the Annual Meeting of the Stockholders or at any special meeting held in lieu thereof. The number of the Directors shall initially be three who shall be designated by the Declarant.

## Article IV

### Nomination and Election of Directors

**Section 1. Nomination.** Nomination for election to the Board of Directors, commencing with the first annual meeting of Members shall be made by the floor at the annual meeting.

**Section 2. Election.** Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## Article V

### Meeting of Directors

**Section 1. Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by

a majority of the Directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or telegraph, at least six (6) days prior to the date named for such meeting.

**Section 2. Special Meeting.** Special meeting of the Board of Directors may be called by the President on three (3) days' notice of each Director, given electronically, personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of any two (2) of the Directors.

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

**Section 4. Fidelity Bonds.** The Board of Directors may require that all officers, Directors and employees of the Association regularly handling or otherwise responsible for the funds of the Association shall furnish adequate fidelity bonds or equivalent insurance against acts of dishonesty. The premiums on such bonds or insurance shall be paid by the Association.

## **Article VI**

### **Powers and Duties of the Board of Directors**

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

- a) Adopt and publish rules and regulations governing the use of the Common Area, and the personal conduct of the members and their guest hereon, and to establish penalty for the infraction thereof;
- b) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- c) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- d) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

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

- a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Type A Members who are entitled to vote;
- b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- c) As more fully provided in the Declaration, to:
  - i. Fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period;
  - ii. Direct the preparation of an Index of all Units on the Registration List;
  - iii. Send electronic or written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
  - iv. Foreclose the lien against any property for which assessments are not paid within sixty (60) days after due date or to bring an action at law against the Owner personally obligated to pay the same.

- d) Issue, or cause an appropriate office to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- e) Procure and maintain adequate liability and hazard insurance on property owned by the Association;
- f) Cause all officers or employees having fiscal responsibility to be bonded, as it may deem appropriate;
- g) Cause the Common Areas to be maintained;
- h) Otherwise perform or cause to be performed the functions and obligations of the Board of the Association as provided for in the Declaration and Articles of Incorporation and these By-Laws.

### **Section 3. Management Agent.**

The Board of Directors may but shall not be required to employ for the Association a management agent or manager (the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing. Any management agreement entered into by the Association shall provide, inter alia, that such agreement may be terminated for cause by either party upon thirty (30) days written notice thereof to the other party and without cause upon (90) days written notice to the other party. The term of any such management agreement shall not exceed one (1) year; provided, however, that term of any such management agreement may be renewable by mutual agreement of the parties for successive one-year periods.

## Article VII

### Officers and Their Duties

**Section 1. Enumeration of Officers.** The Officers of the Association shall be a President, a Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board of Directors for a term of one year and shall hold office until their successors are qualified. The Board of Directors shall have the authority to elect one or more Vice Presidents, Assistant Secretaries and Assistant Treasurers as it may deem advisable whose duties shall be established by the members at the time of their election.

**Section 2. President.** The President shall have the general charge and management of the business of the Association, under all supervision of the Board of Directors, shall preside or appoint another to preside at all meetings, shall sign or countersign all contracts and other instruments of the Association; shall make reports to the Directors and members and perform all other duties as are incident to this office, or are properly required of him or her by the Board of Directors. The President shall be a Director.

**Section 3. Secretary.** The Secretary shall issue notices for all meetings, shall keep their minutes, shall have charge of and keep the seal of the Association, and affix the same to the certificates of stock when such certificates are signed by the President and Secretary, shall affix the seal, attested by his or her signature, to such other instruments as may require the same, and shall make such reports and perform such other duties as are incident to his or her office, or are properly required by the Board of Directors.

**Section 4. Treasurer.** The Treasurer shall have the care and custody of and be responsible for all the funds and securities of the Association, and for keeping full and accurate accounts of all receipts and disbursements in the books belonging to the Association. He or she shall be responsible for the deposit of all

monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designed by the Board of Directors.

**Section 5. Vice-President.** The Vice-President shall assume the responsibilities of the President at any meetings at which the President does not attend. He or she shall also assume all obligations of the President should the President for any reason be unable to complete his or her term of office.

**Section 6. Assistant Secretary.** The Assistant Secretary, if elected by the Board of Directors, shall assume the responsibilities of the Secretary at any meetings at which the Secretary does not attend. He or she shall also assume all obligations of the Secretary should the Secretary for any reason be unable to complete his or her term of office.

**Section 7. Assistant Treasurer.** The Assistant Treasurer, if elected by the Board of Directors, shall assume the responsibilities of the Treasurer at any meetings at which the Treasurer does not attend. He or she shall also assume all obligations of the Treasurer should the Treasurer for any reason be unable to complete his or her term of office.

**Section 8. Removal and Vacancies.** Any officer may be removed summarily with or without cause at any time by the vote of the majority of all of the Directors. Vacancies as to officers shall be first filled by the appropriate assistant officer of vice president, or if none such assistant officer of vice president has been previously elected, by a vote of a majority of the then remaining Directors though less than a quorum.

## **Article IX**

### **Indemnification Against Liability**

**Section 1. Indemnification Against Liability.** The Association shall, to the extent permitted by law, indemnify and hold harmless each person who shall serve any time as a Director or officer of the Association, from and against any and all claims and liabilities to which such person shall become subject by reason of any action alleged to have been taken or permitted by him or her as such Director or officer and shall reimburse each such person for all legal and other expenses reasonably incurred by him or her in connection with any such claims or liability; provided, however, that no such person will be indemnified against or be reimbursed for any expenses incurred in negligence or willful misconduct.

## **Article X**

### **Committees**

The Association may appoint an Architectural Review Board, as provided in the Declaration, in addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

## **Article XI**

### **Books and Records – Fiscal Management**

**Section 1. Fiscal Year.** The fiscal year of the Association shall begin on the first day of January every year, except for the first fiscal year of the Association which shall begin at the date of recordation of the Declaration among the Land Records for Chesterfield County, Virginia. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors should the practice of the Association subsequently dictate.



**Section 2. Principal Office – Change of Same.** The principal office of the Association shall be set forth in the Articles of Incorporation of the Association. The Board of Directors, by appropriate resolution, shall have the authority to change the location of the principal office of the Association from time to time.

**Section 3. Books and Accounts.** Books and accounts of the Association shall be kept under the direction of the Secretary and Treasurer or in accordance with generally accepted accounting practices, consistently applied. The same shall include books with detailed accounts, in chronological order, of receipts and of the expenditures and other transactions of the Association and its administration and shall specify the maintenance and repair expenses of the Common Area, services required or provided with respect to the same and any other expenses incurred by the Association. The amount of any assessment or portion of any assessment, required for payment of any capital expenditure or reserves of the Association shall be credited upon the books of the Association to the “Paid-in-Surplus” account as a capital contribution by the Members.

**Section 4. Annual Statements.** The Treasurer shall annually, within ninety (90) days after the close of the fiscal year of the Association, prepare and execute under oath a general itemized statement showing the actual assets and liabilities of the Association at the close of such fiscal year, and a statement of revenues, costs and expenses. It shall be necessary to set out in the statement the name of any creditor of the Association owned more than One Thousand and No/100 dollars (\$1,000.00). The Treasurer shall furnish to each member of the Association who may make a written request therefore, a copy of such statement, within thirty (30) days after receipt of such request. Such copy may be furnished to the member either in person, electronically or by mail.

**Section 5. Inspection of Books.** The books and accounts of the Association, vouchers accrediting the entries made thereupon and all other records maintained by the Association shall be available for examination by the Members and their duly authorized agents or attorneys, and to the institutional holder of any first mortgage on any Lot and its duly authorized agents or

attorneys, during normal business hours and for purposes reasonably related to their respective interest and after reasonable notice. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

## **Article XII**

### **Assessments**

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the Residential lot against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the highest rate of interest allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against his Unit, and interest, costs, and reasonably attorneys' fees of such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape the liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Residential Lot.

## **Article XIII**

### **Corporate Seal**

The Association may have a seal in circular form having within its circumference the words: Jordan Crossing Homeowners Association, Inc.

## Article XIV

### Amendments

**Section 1.** These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy.

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

## Article XV

### Interpretation – Miscellaneous

**Section 1. Conflict.** These By-Laws are subordinate and subject to all provisions of the Declaration and to the provisions of the Articles of Incorporation of the Association. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these By-Laws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between these By-Laws and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control.

**Section 2. Notices.** Unless another type of notice is herein elsewhere specifically provided for, any and all notices called for in these By-Laws shall be given in writing.

**Section 3. Severability.** In the event any provision or provisions of these By-Laws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

**Section 4. Waiver.** No restriction, condition, obligation or provisions of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

**Section 5. Captions.** The captions contained in these By-Laws are for convenience only and are not part of these By-Laws and are not intended in any way to limit or enlarge the terms and provisions of thee By-Laws or to aid in the construction thereof.

**Section 6. Gender, Etc.** Whenever in the By-Laws the context so requires, the singular number shall include the plural and the converse, and the use of any gender shall be deemed to include all genders.

## **Article XVI**

### **Compliance & Dissolution**

The Board and/or Members of the home association are prohibited from dissolving the Association and/or disposing of any real property owned by the Association without the prior written approval of the Directors of the Department of Planning, Environmental Engineering and Transportation for Chesterfield County, Virginia.

The Association and its Board of Directors shall comply with all applicable zoning ordinances, subdivision zoning conditions, and any subdivision requirements of any other agency of Chesterfield County, Virginia.

IN WITNESS WHEREOF, we being all of the Directors of Property Owners' Association of Jordan Crossing Homeowners Association, Inc. have hereunto set our hands this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Jordan Crossing Homeowners Association, Inc.

By: \_\_\_\_\_  
President