

**ARTICLES OF AMENDMENT AND RESTATEMENT
OF THE
ARTICLES OF INCORPORATION
OF
OLD MILL PLANTATION HOMEOWNERS ASSOCIATION, INC.**

The undersigned, on behalf of OLD MILL PLANTATION HOMEOWNERS ASSOCIATION, INC., a Virginia non-stock corporation, sets forth these Articles of Amendment and Restatement pursuant to Title 13.1 of the Code of Virginia as follows:

ARTICLE I

NAME

The name of the corporation is OLD MILL PLANTATION HOMEOWNERS ASSOCIATION, INC.

ARTICLE II

REGISTERED AGENT

The post office address of the registered office of the corporation is 10 Franklin Road, SE, Suite 900, Roanoke, Virginia 24011, located in the City of Roanoke. The name of its initial registered agent is Maxwell H. Wiegard, Esquire, who is a resident of Virginia and a member of the Virginia State Bar, whose business address is the same as the address of the registered office of the Corporation and who meets the requirements of Section 13.1-634 of the Code of Virginia.

ARTICLE III

INITIAL BOARD OF DIRECTORS

The number of directors constituting the initial Board of Directors is five (5) and the names and addresses of the persons to serve as the initial Directors (the "Initial Directors") are:

<u>Name</u>	<u>Address</u>
Jonathan R. Richardson	7440 Willow Leaf Circle, Roanoke, Virginia
Patrick G. Patterson	7410 Willow Leaf Circle, Roanoke, Virginia
Emily K. Connelly	7323 Burkwood Circle, Roanoke, Virginia
James E. Morrison	7664 Nandina Drive, Roanoke, Virginia
Randall W. Lundy	7532 Grape Holly Lane, Roanoke, Virginia

Of the Initial Directors, the Members of the Association shall elect one Director to hold office for a term of office expiring at the next succeeding annual meeting; two Directors to hold office for a term of office expiring at the second succeeding annual meeting; and two Directors to hold office for a term of office expiring at the third succeeding annual meeting. Upon expiration of the terms of the Initial Directors, additional Directors shall be elected at the annual

recorded in November of 2019, then that Member may exercise votes in accordance with their membership associated with each Lot. In the event a Lot is subdivided and its subparts are then added to adjacent Lots in accordance with the Declaration, then the parties to that transaction shall determine who retains the voting rights to that subdivided Lot. If at any point a dispute arises as to the right to vote for the subdivided Lot, no vote shall be cast until such dispute is resolved. In no event shall more than one (1) vote be cast with respect to any Lot.

ARTICLE VII

AMENDMENTS

Amendments to these Articles of Incorporation may be proposed by any Member or Director and shall be adopted in the same manner as is provided for the amendment of the Declaration as set forth in the Declaration. Said amendment(s) shall be effective when a copy thereof, together with an attached certificate of its approval by the Membership, sealed with the Corporate Seal, signed by the Secretary or an Assistant Secretary, and executed and acknowledged by the President or Vice-President, has been filed with the State Corporation Commission and all filing fees paid.

ARTICLE VIII

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than seventy-five percent (75%) of the Members *provided that* upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE IX

DURATION

The corporation shall exist perpetually.

[Signature page follows.]

**ARTICLES OF AMENDMENT AND RESTATEMENT
OF THE
ARTICLES OF INCORPORATION
OF
OLD MILL PLANTATION HOMEOWNERS ASSOCIATION, INC.**

The undersigned, on behalf of OLD MILL PLANTATION HOMEOWNERS ASSOCIATION, INC., a Virginia non-stock corporation, sets forth these Articles of Amendment and Restatement pursuant to Title 13.1 of the Code of Virginia as follows:

ARTICLE I

NAME

The name of the corporation is OLD MILL PLANTATION HOMEOWNERS ASSOCIATION, INC.

ARTICLE II

REGISTERED AGENT

The post office address of the registered office of the corporation is 10 Franklin Road, SE, Suite 900, Roanoke, Virginia 24011, located in the City of Roanoke. The name of its initial registered agent is Maxwell H. Wiegard, Esquire, who is a resident of Virginia and a member of the Virginia State Bar, whose business address is the same as the address of the registered office of the Corporation and who meets the requirements of Section 13.1-634 of the Code of Virginia.

ARTICLE III

INITIAL BOARD OF DIRECTORS

The number of directors constituting the initial Board of Directors is five (5) and the names and addresses of the persons to serve as the initial Directors (the "Initial Directors") are:

<u>Name</u>	<u>Address</u>
Jonathan R. Richardson	7440 Willow Leaf Circle, Roanoke, Virginia
Patrick G. Patterson	7410 Willow Leaf Circle, Roanoke, Virginia
Emily K. Connelly	7323 Burkwood Circle, Roanoke, Virginia
James E. Morrison	7664 Nandina Drive, Roanoke, Virginia
Randall W. Lundy	7532 Grape Holly Lane, Roanoke, Virginia

Of the Initial Directors, the Members of the Association shall elect one Director to hold office for a term of office expiring at the next succeeding annual meeting; two Directors to hold office for a term of office expiring at the second succeeding annual meeting; and two Directors to hold office for a term of office expiring at the third succeeding annual meeting. Upon expiration of the terms of the Initial Directors, additional Directors shall be elected at the annual

meeting of the Association to be Directors for a term of three (3) years in the place of the Director or Directors whose terms have expired.

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and control of that certain tract of property described as:

OLD MILL PLANTATION, plat of which is, or is to be, recorded in the Clerk's Office of the Circuit "Court of the County of Roanoke, Virginia

and to promote the health, safety and welfare of the residents within the above- described property and for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration of Covenants, Conditions and Restrictions of OLD MILL PLANTATION (the "Declaration"), applicable to the property and recorded or to be recorded in the Office of the Clerk of the Circuit Court of the County of Roanoke, Virginia, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent of a majority of the Members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area which it may own, if any, to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless approved by the Membership and then signed by all Members of the Board, agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional property provided that any such merger, consolidation or annexation shall be in accordance with the provisions of the Declaration and the By-Laws; and

(g) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Virginia by law may now or hereafter have or exercise.

ARTICLE V

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot (as defined by the Declaration), which is subject to the Declaration to assessment by the Association shall be a Member of the Association provided, however, that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member, unless and until such person or entity has succeeded to such Lot Owner's interest by enforcement of such security interest. No owner shall have more than one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership. In the event an Owner owns a parcel that consists of two or more Lots that have been combined into one Lot pursuant to the requirements of Roanoke County prior to the recordation of that Declaration recorded in November of 2019, then that Owner shall only have one Membership and one vote pursuant to Article VI below. Any lot combination occurring after the recordation of that Declaration recorded in November of 2019 shall not terminate the Owner's Membership as to the extinguished Lot and the Owner shall retain a Membership as to that Lot, along with the right to vote on behalf of that Lot pursuant to Article VI below.

ARTICLE VI

VOTING MEMBERSHIP

The Association shall have one (1) class of voting Membership. Voting members shall be all those Members as defined in Article V above. Except as provided below, Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article V. When more than one person holds such interest in any Lot, all such persons shall be members and the vote or votes for such Lot shall be exercised as the majority of such persons among themselves determine (at a meeting of the Members, a representation by any of such persons that a majority of such persons have agreed as to the vote or votes for such lot shall be conclusive unless another of such persons contests such representation at such meeting prior to the casting of such vote). If a Member owns a single parcel that consists of two or more Lots that have been combined by vacation of lot lines to form a single parcel, and that parcel was combined in accordance with the requirements of Roanoke County prior to the recordation of that Declaration recorded in November of 2019, then that Member may only exercise a single vote for that Lot. If two or more Lots are combined after the recordation of that Declaration

recorded in November of 2019, then that Member may exercise votes in accordance with their membership associated with each Lot. In the event a Lot is subdivided and its subparts are then added to adjacent Lots in accordance with the Declaration, then the parties to that transaction shall determine who retains the voting rights to that subdivided Lot. If at any point a dispute arises as to the right to vote for the subdivided Lot, no vote shall be cast until such dispute is resolved. In no event shall more than one (1) vote be cast with respect to any Lot.

ARTICLE VII

AMENDMENTS

Amendments to these Articles of Incorporation may be proposed by any Member or Director and shall be adopted in the same manner as is provided for the amendment of the Declaration as set forth in the Declaration. Said amendment(s) shall be effective when a copy thereof, together with an attached certificate of its approval by the Membership, sealed with the Corporate Seal, signed by the Secretary or an Assistant Secretary, and executed and acknowledged by the President or Vice-President, has been filed with the State Corporation Commission and all filing fees paid.

ARTICLE VIII

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than seventy-five percent (75%) of the Members *provided that* upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE IX

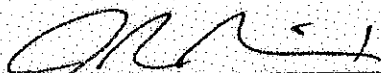
DURATION

The corporation shall exist perpetually.

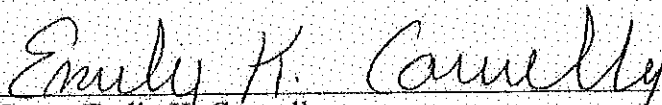
[Signature page follows.]

IN WITNESS WHEREOF, these Articles of Amendment and Restatement of the Articles of Incorporation of Old Mill Plantation Homeowners Association, Inc. have been executed this 11 day of November, 2019, by its President and Secretary.

**OLD MILL PLANTATION HOMEOWNERS
ASSOCIATION, INC.**



Name: Jonathan R. Richardson
Title: President



Name: Emily K. Connelly
Title: Secretary

**AMENDED AND RESTATED
BYLAWS
OF
OLD MILL PLANTATION**

County of Roanoke, Virginia

**ARTICLE 1
IDENTITY**

These Amended and Restated Bylaws (the "Bylaws") of OLD MILL PLANTATION HOMEOWNERS ASSOCIATION, INC., a non-stock corporation organized under the laws of the Commonwealth of Virginia (the "Association") are hereby adopted this 5th day of November, 2019. The Association has been organized for the purpose of operating and managing the Old Mill Plantation Homeowners Community, situated in the County of Roanoke, Virginia.

- 1.1 Provisions of Declaration and Articles of Incorporation to Control. The provisions of these Bylaws are applicable to OLD MILL PLANTATION, and the terms and provisions hereof are expressly subject to those terms, definitions, provisions, conditions and authorizations contained in the Articles of Incorporation of the Association (the "Articles") and the Declaration of Covenants, Conditions, and Restrictions of OLD MILL PLANTATION Community (the "Declaration"), as each may be amended from time to time, which have been recorded in the Clerk's Office, Circuit Court, County of Roanoke, Virginia. The terms and provisions of the Articles of Incorporation and Declaration shall control wherever the same may be in conflict herewith.
- 1.2 Defined Terms. Capitalized terms, unless otherwise defined herein, shall have the meaning set forth in the Declaration.
- 1.3 Subject Parties. All present or future Members, present or future Owners, present or future Occupants, and any other person who might use the Association or any of the facilities thereof in any manner, are subject to all the terms and provisions of these Bylaws.
- 1.4 Office. The office of the Association shall be at 2774 Electric Road, Roanoke, VA 24018, or such other place as the Board of Directors shall designate from time to time.

**ARTICLE 2
THE ASSOCIATION**

- 2.1 Qualification of Members. The qualification of Members of the Association, the manner of their admission to Membership and termination of such Membership shall be as set forth in the Declaration.
- 2.2 Powers of the Association. The Association shall have, in addition to those powers listed in the Articles of Incorporation, all of the powers reasonably necessary to implement and

effectuate the rules and objectives set forth in the Declaration, these Bylaws, the Articles, and all other documents pertaining to the Association.

2.3 Annual Meetings. The annual meetings of the Association shall be held in November of each year. At such annual meetings, the Board of Directors shall be elected by secret written ballot of the Members in accordance with the requirements of Section 2.10 of this Article. Meetings of the Association shall be held on the premises of the Association, at the principal office of the Association, or at such other suitable place convenient to the Members as may be designated by the Board of Directors.

2.4 Special Meetings.

2.4.1 Special Meetings. The President of the Association shall call a special meeting of the Association if so directed by resolution of the Board of Directors or upon a petition, signed and presented to the Secretary by Members, of not less than one-third (1/3) of the aggregate voting interest of the Membership. The notice of any special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice. Ten (10) days' written notice of such meeting shall be given to all Members.

2.4.2 Special Meeting Upon Termination of Developer Rights. Within thirty (30) days after the Developer relinquishes its rights as developer and declarant of the Association, a Special Meeting of the Association shall be held at which all the Directors of the Association designated by the Developer shall resign, and the Members, including the Developer, if the Developer owns one or more Lots in the Property, shall thereupon elect successor Directors of the Association to act in the place and stead of those resigning (collectively, the "Initial Board of Directors"). The Initial Board of Directors shall be divided into three classes: the first class shall have one Director, the second class shall have two Directors, and the third class shall have two Directors, with the term of office of one class expiring each year. The Director of the first class shall be elected to hold office for a term of office expiring at the next succeeding annual meeting; the Directors of the second class shall be elected to hold office for a term of office expiring at the second succeeding annual meeting; and the Directors of the third class shall be elected to hold office for a term of office expiring at the third succeeding annual meeting. Upon expiration of the terms of the Initial Directors, other persons who would qualify under the provisions contained in these Bylaws shall be elected at the annual meeting of the Association to be Directors for a term of three (3) years in the place of the Director or Directors whose terms have expired.

2.5 Notice of Meetings. The Secretary shall send each Member notice of each annual or regularly-scheduled meeting of the Members by U.S. Mail at least twenty-one (21), but not more than thirty (30) days, and of each special meeting of the Members, at least ten (10) but not more than thirty (30) days, prior to such meeting, stating the time, place and

purpose thereof. The mailing of a notice of meeting in the manner provided in this Section shall be considered proper service of notice. In addition to mailing this notice, the Secretary shall send electronic notice to the Members, by whichever means approved by the Board of Directors and shall post notice of the meeting in a location where community postings are made.

2.6 Adjournment of Meetings. If at any meeting of the Association a quorum or the required percentage of attendance is not present, Members representing a majority of the total voting interest present at such meeting in person or by proxy may adjourn the meeting to a time when a quorum is present.

2.7 Order of Business. The order of business at all meetings of the Association shall be as follows:

- Roll call and Certifying of Proxies.
- Proof of Notice of Meeting.
- Reading of minutes of preceding meeting.
- Report of Board of Directors and Officers.
- Reports of committees, if any.
- Election or appointment of inspectors of election (when so required).
- Election of Directors (when so required).
- Unfinished Business.
- New Business.
- Adjournment.

2.8 Title to Lots. The Association may acquire, hold and transfer full legal title to one or more Lots, Common Areas, Recreational Property, or other Association Property in its own name.

2.9 Proxies and Multiple Owners Voting. Votes may be cast in person or proxy. No proxy shall be revocable except by actual notice to the person presiding over the meeting, by any one or more of the Lot Owners, that it is revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice aforesaid, or if the signatures of any of those executing the same have not been witnessed by a person who shall sign his full name and address. The proxy of any person shall be void if not signed by a person having authority at the time of execution thereof to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy.

In the instance where a Lot is owned by more than one person, if one of the co-Owners of the Lot is present at an Association meeting, that person shall be entitled to cast the vote for that Lot. If more than one of such persons is present, the vote appertaining to the subject Lot shall be cast only in accordance with their unanimous agreement and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to the subject Lot without protest being made forthwith by any of the other co-Owners to the person presiding at the meeting.

- 2.10. Voting. Voting at all meetings of the Association shall be as set forth in the Declaration. The Members representing at least forty percent (40%) of the total voting interest voting in person or by proxy at one time at a duly convened meeting at which a quorum is present are required to adopt decisions made at any meeting of the Association. No Member may vote at any meeting of the Association if said Member is delinquent in the payment of any Assessment or is under suspension for any rules violation.
- 2.11. Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Members representing forty percent (40%) or more of the Lots shall constitute a quorum at all meetings of the Association.
- 2.12. Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted and all transactions occurring at the meeting. The then-current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Declaration or the Articles. All votes shall be tallied by inspectors appointed by the President or other Officer presiding over the meeting.

ARTICLE 3 BOARD OF DIRECTORS

- 3.1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors. The Board of Directors shall be composed of five (5) persons, who shall be elected by the Members of the Association in accordance with this Article 3 and Section 2.4.2 herein. No Member may be elected or serve as a Director of the Association if said Member is delinquent in the payment of any Assessment or is under suspension for any rules violation.
- 3.2. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things not prohibited by the Declaration or the Articles. The Board of Directors shall have the power from time to time to adopt any rules and regulations ("Rules and Regulations") deemed necessary for the benefit and enjoyment of the Property; provided, however, that such Rules and Regulations shall not be in conflict with the Declaration or the Articles. The Board of Directors shall delegate to one of its members or to a person employed for such purpose the authority to act on behalf of the Board of Directors on such matters relating to the duties of the Managing Agent, which may arise between meetings of the Board of Directors, as the Board of Directors deems appropriate. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors, on behalf of the Association:
- 3.2.1 Shall prepare an annual budget, in which there shall be established the Assessments of each Member.

- 3.2.2 Shall make annual and special Assessments against Members to defray the costs and expenses of the Association and establish the means and methods of collecting such Assessments from the Lot Owners. Unless otherwise determined or permitted by the Board of Directors, the annual Assessment against each Member shall be payable annually and shall be due and payable in advance on the first day of the Association's fiscal year.
- 3.2.3 Shall provide for the operation, care, upkeep and maintenance of all of the Association Property and services of the Association.
- 3.2.4 May designate, hire and dismiss the professional management necessary for the maintenance, operation, repair and replacement of the Association Property, Common Area and Common Maintenance Areas and provide services for the Association and, where appropriate, provide for the compensation of such personnel and for the purpose of equipment, supplies and materials to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the property owned by the Association.
- 3.2.5 Shall collect the Assessments against the Members; deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration and purposes of the Association.
- 3.2.6 Shall pay all taxes, charges and assessments which are or may become liens against any part of the Association, other than individual Lots and the appurtenances thereto, and assess the same against the Members and their respective Lots subject to such liens.
- 3.2.7 Shall make, or contract for the making of, repairs, and improvements to the Association Property, Common Areas, or the Common Maintenance Areas in accordance with these Bylaws and the Declaration.
- 3.2.8 Shall enforce by legal means the provisions of the Declaration, the Articles, these Bylaws, the Rules and Regulations.
- 3.2.9 Shall act on behalf of the Association with respect to all matters arising out of any eminent domain proceedings.
- 3.2.10 Shall obtain and carry insurance against casualties and liabilities, pay the premiums of such insurance, and adjust and settle any claims thereunder.
- 3.2.11 Shall pay the cost of all authorized services rendered to the Association and not billed to Members of individual Lots.
- 3.2.12 Shall keep books with detailed accounts in chronological order of the receipts and expenditures affecting the Association Property and the administration of

the Association, specifying the expenses of maintenance and repair of the Association Property and any other expenses incurred. Such books and vouchers accrediting the entries thereupon shall be available for examination by the Members, or their duly authorized agents or attorneys during general business hours on working days at the times and in the manner set and announced by the Board of Directors for the general knowledge of the Members. All books and records shall be kept in accordance with good and accepted accounting practices, and the same shall be reviewed at least once each year by an independent accountant retained by the Board of Directors who shall not be a resident of a Lot or a Member. The cost of such review shall be a Common Expense.

- 3.2.13 Shall notify any Member of a default in paying an Assessment or any other default and may simultaneously notify mortgagees of Mortgages on all or any Lots in the Property (collectively, the "Mortgagees") of any default hereunder by any Member subject to such Mortgage.
 - 3.2.14 May acquire, lease, manage, hold and dispose of Lots and mortgage the same if such expenditures and hypothecations are included in the budget adopted by the Association.
 - 3.2.15 May borrow money and, with the assent of a majority of the Members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.
 - 3.2.16 May do such other things and acts not inconsistent with the Declaration or the Articles which the Board of Directors may be authorized to do by its own resolution.
- 3.3 Election of Officers. Within ten (10) days after the election of the Board of Directors, a meeting of the Board of Directors shall be held to elect the Officers of the Association. No Member may be elected or serve as an Officer of the Association if said Member is delinquent in the payment of any Assessment or is under suspension for any rules violation.
- 3.4 Regular Meetings. Regular meetings of the Board of Directors shall be held at such time and place as shall be determined from time to time by a majority of the Directors, but such meetings shall be held at least once every three (3) months during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to all Directors and Members by mail, email, or actual delivery at least five (5) business days prior to the day named for such meeting.
- 3.5 Special Meetings. Special Meetings of the Board of Directors may be called by the President on three (3) business days' notice to all Directors and Members given by mail, email, or actual delivery, which shall state the time, place and purpose of the meeting.

Special meetings of the Board of Directors shall be called by the President or in like manner and on like notice on the written request of at least two Directors.

- 3.6 Waiver of Notice. Any Director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time, place and purpose of such meeting, unless such member attends for the specific purpose of challenging such notice. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.
- 3.7 Quorum of Board of Directors. At all meetings of the Board of Directors a majority of the Board shall constitute a quorum for the transaction of business, and the votes of a majority of the Board of Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, the meeting may be adjourned to a new time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.
- 3.8 Compensation. No compensation is to be provided to any member of the Board of Directors. Under no circumstance should the Board of Directors employ a Director as an employee of the Association.
- 3.9 Conduct of Meetings. The President, who shall be a Director, shall preside over all meetings of the Board of Directors and the Secretary, who may be but does not have to be a Director, shall keep a minute book of the Board of Directors recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. The then-current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Declaration or the Articles.
- 3.10 Action without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the Directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.
- 3.11 Vacancies. Vacancies in the Board of Directors may be filled by the remaining Directors selecting someone to serve until the next Annual Meeting. In the event of three (3) or more vacancies on the Board, a special meeting of the Association shall be called by the President and the vacancies filled by an election for such purpose.
- 3.12 Liability of the Board of Directors, Officers, Members and Association.
- 3.12.1 The Officers and Directors of the Association shall not be liable to the Association for any mistake of judgment caused by negligence or otherwise.

except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each Officer, Director, and Member of the Association from and against all contractual liability to others arising out of contracts made by the Officers or the Board of Directors on behalf of the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration, the Articles, Bylaws or the Virginia Nonstock Corporation Act. Other than has been previously stated in this Section, Officers and Directors shall have no personal liability with respect to any contract made by them on behalf of the Association and shall be considered as only acting as agents for the Association. The liability, if any, of any Member arising out of any contract made by the Officers or Board of Directors or out of the aforesaid indemnity in favor of any Director or Officer, or for damages as a result or injuries arising in connection with the Association or its property, or for liabilities incurred by the Association, shall result solely by virtue of his ownership of a Lot and shall be limited to the total liability per Lot multiplied by a fraction created by one as the numerator and the total number of Lots as the denominator. Every agreement made by the Officers, the Board of Directors or the Managing Agent on behalf of the Association shall, if obtainable, provide that the Officers, the Directors, or the Managing Agent, as the case may be, are acting only as agents of the Association and that they shall have no personal liability thereunder (except as Members), and that each Member's liability thereunder shall be limited as provided in this Section.

3.12.2 The Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a Common Expense, or for injury or damage to any person or property caused by the elements, or by any Member, or any other person, or resulting from electricity or water, snow or ice which may leak or flow from any portion of the Association's Property or from any pipe, drain, conduit, appliance or equipment thereof. The Association shall not be liable to any Member for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Association's Property. No diminution or abatement of any Assessments, as elsewhere provided herein, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Association Property, or from any action taken by the Association to comply with any law, ordinance, or with the order or directive of any municipal or other governmental authority.

3.13 Common or Interested Transactions. Each Officer and Director shall exercise his powers and duties in good faith and with a view to the best interests of the Association. No contract or other transaction between the Association and any of its Members, Officers, or Directors, or between the Association and any corporation, firm or association in which any of the Members, Officers, or Directors are members or officers or are pecuniarily or otherwise interested, is either void or voidable because any such Member, Officer, or Director is present at the meeting of the Board of Directors or any committee

thereof which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subparagraphs exists:

- 3.13.1 The fact of the common membership or interest by such Member, Officer, or Director is disclosed or known to the Board of Directors or noted in the minutes, and the Board of Directors authorizes, approves or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or
- 3.13.2 The fact of the common membership or interest by such Member, Officer, or Director is disclosed or known to at least a majority of the Members, and the Members approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or
- 3.13.3 The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Any common or interested Member, Officer, or Director may be counted in determining the presence of a quorum of any meeting of the Board of Directors, or committee thereof, or meeting of the Members which authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize or disallow any contract or transaction with like force and effect as if each Member, Officer, or Director was not so interested, but only if any one of the conditions set forth in Sections 3.13.1 to 3.13.3 exists at the time such vote is placed.

- 3.14 Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of Two Thousand Dollars (\$2,000.00) shall be executed by any two persons designated by the Board of Directors. All such instruments for expenditures or obligations of Two Thousand Dollars (\$2,000) or less may be executed by any one person designated by the Board of Directors. This provision shall not preclude the Board of Directors from designating any one or more Officers of the Association to execute any agreement, contract, deed, lease, check, or other instrument of the Association in accordance with this Section.
- 3.15 Removal. Any one (1) or more of the Directors may be removed, either with or without cause, at any time by an affirmative vote of the majority of the Members at any special meeting called for such purpose, or at an annual meeting.

ARTICLE 4 OFFICERS

- 4.1 Numbering of Officers. The Officers of the Association shall be a President, a Vice President, a Treasurer, and a Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed, with or without cause, by a majority vote of the Directors at any meeting. The President shall be a Director; and the Vice President, Treasurer, and Secretary each may be a Director, but being a Director

shall not be a requirement to hold any such office. Any person may hold two or more offices except that the President shall not also be Vice President, Secretary or an Assistant Secretary. The Board of Directors shall, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

- 4.2 President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the president of any association, including, but not limited to, the power to appoint committees from among the Members from time to time, as he may, in his discretion, determine appropriate to assist in the conduct of the affairs of the Association.
- 4.3 Vice President. The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be described by the Board of Directors.
- 4.4 Secretary. The Secretary shall keep the minutes of all proceedings of the Board of Directors and the Members. He shall attend to the giving and serving of all notices to the Members and Directors, and all other notices required by law, these bylaws, the Articles, or the Declaration. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of secretary of an association and as may be required by the Board of Directors or the President.
- 4.5 Treasurer. The Treasurer shall have custody of all of the Association's funds, securities and evidences of indebtedness. He shall keep, or supervise the keeping of, the Assessment rolls and accounts of the Members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties incident to the office of the Treasurer.
- 4.6 Compensation. No compensation is to be provided to any Officer of the Association. Under no circumstance should the Board of Directors employ an Officer as an employee of the Association.

ARTICLE 5 AMENDMENT TO BYLAWS

- 5.1 Amendments and Termination. These Bylaws may not be terminated unless two-thirds (2/3) of the total voting interest in the Association consents.
- 5.2 Method of Amending.
- 5.2.1 Proposal of Amendment. An Amendment or Amendments may be proposed by the Board of Directors acting upon a vote of more than two-thirds (2/3) of

the Directors, or by more than two-thirds (2/3) of the Members, whether meeting as Members or by instrument in writing signed by them.

5.2.2 Meeting; Notice; Voting. Upon any Amendment or Amendments being proposed by the Board of Directors or Members, such proposed Amendment or Amendments shall be transmitted to the President, or other officer of the Association in the absence of the President, who shall thereupon call a special meeting of the Members of the Association. It shall be the duty of the Secretary to give to each Member written or printed notice of the special meeting, stating the time and place thereof, and reciting the proposed Amendment or Amendments in reasonably detailed form. Any Member may, by written waiver of notice signed by such Member, waive such notice and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. At the meeting, the Amendment or Amendments proposed must be approved by an affirmative vote of more than sixty percent (60%) of the Members in order for such Amendment or Amendments to become effective. The written vote of any Member shall be recognized at such meeting if such Member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary prior to such meeting or at such meeting.

5.2.3 NO AMENDMENT, NOTWITHSTANDING ANY OTHER PROVISION HEREIN CONTAINED AND REGARDLESS OF THE VOTE, SHALL CHANGE ARCHITECTURAL, ENGINEERING, LANDSCAPING, OR DECORATIVE DESIGN OF THE PROPERTY AS FINALLY CONSTRUCTED.

ARTICLE 6 MISCELLANEOUS

6.1 Termination of Developer Rights. In accordance with the Declaration and Bylaws in affect immediately preceding the adoption of these Bylaws, the adoption of the Declaration and these Bylaws constitute the Developer's last acts prior to relinquishing its rights and obligations as developer and declarant of the Property and the Association. From the date immediately succeeding the date hereof, the Developer shall have no further rights or obligations as developer or declarant of the Property or the Association.

6.2 Notices. Unless otherwise stated herein, all notices, demands, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered by mail or actual delivery (a) if to a Member, at the address which Member shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Lot of such Member; or (b) if to the Association, the Board of Directors or to the Managing Agent, at the principal office of the Managing Agent or at such other address as shall be designated by notice in writing to the Members


pursuant to this Section. If a Lot is owned by more than one person, each person who so designates an address in writing to the Secretary shall be entitled to receive all notices hereunder.

- 6.3 Captions. The Captions used herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.
- 6.4 Gender: Singular/Plural. The use of masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.
- 6.5 Severability. All of the conditions, restrictions and regulations contained in these Bylaws are hereby declared to be severable and a finding by any court of competent jurisdiction that any of them or any clause or phrase thereof, is void, unlawful or unenforceable, shall not affect the validity or enforceability of any other covenants, conditions, restrictions, reservations, or clause or phrase thereof.
- 6.6 Governing Law; Venue. These Bylaws and all matters arising out of or relating to these Bylaws shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without giving effect to any choice or conflict of law provision or rule. Any legal suit, action, or proceeding arising out of or based upon or relating to these Bylaws shall be instituted in the federal courts of the United States of America or the courts of the Commonwealth of Virginia in each case located in the County of Roanoke, Virginia.

[The rest of this page left blank intentionally; signature page follows.]

IN WITNESS WHEREOF, the foregoing Bylaws have been adopted as the Bylaws of OLD MILL PLANTATION HOMEOWNERS ASSOCIATION, INC.

OLD MILL PLANTATION HOWEOWNERS ASSOCIATION, INC., a Virginia corporation

By:  (SEAL)
Its: President

State of Virginia
City/County of Roanoke

Subscribed, sworn to and acknowledged before me by Michael A. (Mike) Anderson of OLD MILL PLANTATION HOWEOWNERS ASSOCIATION, INC., this 5th day of November, 2019.

JENNIFER LYNN BUSCH
NOTARY PUBLIC
REGISTRATION # 267317
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
12/31/2020

000206

Prepared by and return to:

Maxwell H. Wiegard, Esq.
Gentry Locke Rakes & Moore, LLP
P.O. Box 40013
Roanoke, Virginia 24022-0013
VA State Bar No. 68787

Tax Map Nos.: 095.01-08-01.00-0000 thru 095.01-08-13.01-0000;
095.01-08-16.00-0000 thru 095.01-08-38.00-0000;
095.01-09-01.00-0000 thru 095.01-09-06.00-0000;
095.01-10-01.00-0000 thru 095.01-10-31.00-0000;
095.01-02-25.02-0000 thru 095.01-02-25.05-0000; and
095.01-02-29.03-0000.

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

**OLD MILL PLANTATION
Roanoke County, Virginia**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS of Old Mill Plantation (this, "Declaration") is entered into this 5th day of November, 2019, by and between ESTATES AT OLD MILL, LLC, a Virginia limited liability company (the "Developer" or "Declarant"), and OLD MILL PLANTATION HOMEOWNERS ASSOCIATION, INC., a Virginia corporation (the "Association").

RECITALS

WHEREAS, Vaughn & Jackson, LLC, now known as Vaughn Properties, LLC (the "First Prior Declarant") filed that certain Declaration of Covenants, Conditions, and Restrictions of Old Mill Plantation on February 9, 2006 in the Clerk's Office of the Circuit Court of the County of Roanoke, Virginia (the "Clerk's Office"), as Instrument No. 200602108 (the "Original Declaration") to provide for the preservation of values and amenities of the development to be known as "Old Mill Planation";

WHEREAS, the Original Declaration was re-recorded on February 23, 2006 in the Clerk's Office as Instrument No. 200602827 to attach certain Exhibits not included with the original filing;

WHEREAS, the Original Declaration was amended by: (i) Amendment dated May 19, 2006 and recorded in the Clerk's Office as Instrument No. 200608077, (ii) Amendment dated October 26, 2007 and recorded in the Clerk's Office as Instrument No. 200717506, (iii) Amendment dated March 5, 2008 and recorded in the Clerk's Office as Instrument No.

200803054, (iv) Amendment dated January 20, 2010 and recorded in the Clerk's Office as Instrument No. 201000658, (v) Amendment dated June 8, 2010 and recorded in the Clerk's Office as Instrument No. 201005815, (vi) Amendment dated February 24, 2011 and recorded in the Clerk's Office as Instrument No. 201102013, (vii) Amendment dated July 18, 2016 and recorded in the Clerk's Office as Instrument No. 201606916, (viii) Amendment dated April 28, 2017 and recorded in the Clerk's Office as Instrument No. 201704561, (ix) Amendment dated July 13, 2017 and recorded in the Clerk's Office as Instrument No. 201707126, and (x) Amendment dated May 9, 2019 and recorded in the Clerk's Office as Instrument No. 201903964 (the Original Declaration, as amended, is collectively referred to herein as the "Amended Declaration");

WHEREAS, the First Prior Declarant incorporated the Association on or about November 14, 2005 for the purpose of administering the restrictions and the other purposes more particularly set forth in the Amended Declaration;

WHEREAS, the Bylaws of the Association were adopted at the organizational meeting of the Association's Board of Directors on November 15, 2005 (as the same may be amended from time to time, the "Bylaws");

WHEREAS, the First Prior Declarant's rights under the Amended Declaration and the Bylaws were assigned and transferred to Valley Bank, a Virginia banking corporation (the "Second Prior Declarant"), pursuant to the terms and conditions of that certain Assignment and Subordination Agreement dated December 17, 2010 and recorded in the Clerk's Office as Instrument No. 201013561 and Instrument No. 201013562;

WHEREAS, the Second Prior Declarant assigned the rights received from the First Prior Declarant to VB Land, LLC, a Virginia limited liability company (the "Third Prior Declarant"), as reflected in that certain Assignment of Declarant's Rights dated February 24, 2011 and recorded in the Clerk's Office as Instrument No. 201102012;

WHEREAS, the Third Prior Declarant assigned the rights received from the Second Prior Declarant to the Declarant, as reflected in that certain Assignment of Declarant's Rights dated July 13, 2017 and recorded in the Clerk's Office as Instrument No. 201707128;

WHEREAS, the Amended Declaration provides that the Amended Declaration may be amended by the Developer as long as it is the Class B Member;

WHEREAS, the Amended Declaration provides that the Class B Membership shall cease and terminate at such time that the Developer has conveyed the last lot or parcel of property subject to the Declaration;

WHEREAS, the Developer is the current Class B Member and owns at least one lot or parcel subject to the Declaration;

000208

WHEREAS, in conjunction with transitioning ownership of the Recreational Property to the Association, the Developer retained its status as a Class B Member post-closing for the sole purpose of assisting with the transition to operation of the Association by the Owners;

WHEREAS, the transition Board of Directors has sought independent counsel which has prepared this Declaration reflective of its advice as to the best interests of the Association and at the request of the transition Board of Directors, the Developer desires to amend and restate the Amended Declaration;

WHEREAS, by instrument separately recorded , the Developer shall convey its entire interest in all remaining lot(s) and/or parcel(s) subject to the Declaration to a third party (the "Terminating Conveyance"); and

WHEREAS, the Developer, immediately following the adoption of this Declaration and the Terminating Conveyance, desires to terminate the Class B Membership.

DECLARATION

NOW, THEREFORE, the Developer and the Association hereby declare the Property is and shall be held, transferred, sold, conveyed, occupied and used subject to the provisions of the Restrictions hereinafter set forth, for and during the period of time hereinafter specified.

ARTICLE 1 DEFINITIONS

The following words when used in this Declaration or any supplement hereto shall have the following meanings:

- 1.1 "Additional Land" or "Expandable Land" shall mean and refer to those tracts or parcels of land added to the Property pursuant to Paragraph 3.2 hereof.
- 1.2 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association.
- 1.3 "Assessment" shall mean and refer to an Owner's share of the Common Expenses, from time to time assessed against an Owner by the Association in the manner herein provided, and shall include any initial assessment fee and any annual or special assessment levied by the Association in accordance with Article 5 herein.
- 1.4 "Association" shall mean and refer to the Old Mill Plantation Homeowners Association, Inc.
- 1.5 "Association Property" shall mean and refer to the real property and personal property owned by or acquired in the future by the Association.

- 1.6 "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association.
- 1.7 "Common Areas" shall mean all portions of the Property designed for the use, enjoyment, and access of all Members.
- 1.8 "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves, pursuant to the provisions of the Declaration.
- 1.9 "Common Maintenance Areas" shall mean the areas to be maintained by the Association pursuant to this Declaration which shall include but not be limited to all Common Areas and Association Property.
- 1.10 "Declaration" shall have the meaning set forth above.
- 1.11 "Declarant" shall mean Estates at Old Mill, LLC, who assumed certain Declarant Rights pursuant to that Assignment of Declarant's Rights dated July 13, 2017 and recorded in the Clerk's Office as Instrument No. 201707128.
- 1.12 "Developer" shall have the meaning set forth above.
- 1.13 "Lot" or "Lots" shall mean and refer to all numbered lots of land on those plats attached hereto as "Exhibit A" and recorded in the land records for Roanoke County, Virginia, but shall not include any lot otherwise designated or any of the Common Area or Association Property.
- 1.14 "Member" shall mean and refer to all those who are members of the Association, as provided herein.
- 1.15 "Mortgage" shall mean and refer to any mortgage, deed of trust or similar instrument encumbering a Lot as security for the performance of any obligation.
- 1.16 "Occupant" shall mean and refer to any person, including, without limitation, any guest, invitee, tenant, lessee or a family member of a Member, occupying or otherwise using or visiting a Lot.
- 1.17 "Owners" or "Lot Owners" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure.
- 1.18 "Property" shall mean and refer to the real property, as described in the attached "Exhibit A", and all subsequent additions thereto, including the Lots, the Association Property, the Additional Land, the Recreational Property, the Common Areas, and the Common Maintenance Areas.

- 1.19 "Person" shall mean any person or persons, entity or entities, or any combination thereof.
- 1.20 "Recreational Property" shall mean that certain real property and personal property, which is a part of the Association Property, and is operated by the Association as, or used by the Association to operate, a swim club, clubhouse, tennis courts, and other recreation facilities on the Property.
- 1.21 "Review Committee" shall have the meaning set forth below.

ARTICLE 2
MEMBERSHIP AND VOTING RIGHTS

- 2.1 Membership: Every person or entity who is a record owner of a fee or undivided fee interest in any Lot, which is subject to this Amended and Restated Declaration of Covenants, Conditions and Restrictions to assessment by the Association shall be a Member of the Association provided, however, that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member, unless and until such person or entity has succeeded to such Lot Owner's interest by enforcement of such security interest. No owner shall have more than one membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership. In the event an Owner owns a parcel that consists of two or more Lots that have been combined into one Lot pursuant to the requirements of Roanoke County prior to the recordation of this Declaration, then that Owner shall only have one Membership and one vote pursuant to Section 2.2 below. Any lot combination occurring after the recordation of this Declaration shall not terminate the Owner's Membership as to the extinguished Lot and the Owner shall retain a Membership as to that Lot, along with the right to vote on behalf of that Lot pursuant to Section 2.2 below.
- 2.2 Voting: Voting members shall be all those Members as defined in Article 2, Section 2.1 above. Except as provided below, Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article 2. When more than one person holds such interest in any Lot, all such persons shall be members and the vote or votes for such Lot shall be exercised as the majority of such persons among themselves determine (at a meeting of the members, a representation by any of such persons that a majority of such persons have agreed as to the vote or votes for such lot shall be conclusive unless another of such persons contests such representation at such meeting prior to the casting of such vote. If a Member owns a single parcel that consists of two or more Lots as depicted on Exhibit A attached hereto that have been combined by vacation of lot lines to form a single parcel, and that parcel was combined in accordance with the requirements of Roanoke County prior to the recordation of this Declaration, then that Member may only exercise a single vote for that Lot. If two or more Lots are combined after the recordation of this Declaration, then that Member may exercise votes in accordance with their membership associated with each Lot as depicted on Exhibit A. In the event a Lot is subdivided and its subparts are then added to adjacent Lots in

000211

accordance with Section 14.29 herein, then the parties to that transaction shall determine who retains the voting rights to that subdivided Lot. If at any point a dispute arises as to the right to vote for the subdivided Lot, no vote shall be cast until such dispute is resolved. In no event shall more than one (1) vote be cast with respect to any Lot.

ARTICLE 3
PROPERTY SUBJECT TO THIS DECLARATION

- 3.1 The Property is subject to this Declaration.
- 3.2 The Association may incorporate Additional Land into the Property by a majority vote of the Members. In the event that any Additional Land is incorporated into the Property, the Association shall record, or cause to be recorded, all documents necessary to incorporate the Additional Land into the Property, thereby (i) enlarging the Property and subjecting such Additional Land to this Declaration, (ii) granting to the Lot Owner of such Additional Land any rights provided herein, if applicable, and (iii) considering such Additional Land within the definitions herein recited for all purposes of this Declaration.

ARTICLE 4
PROPERTY RIGHTS IN THE ASSOCIATION PROPERTY AND COMMON AREAS

- 4.1 Lot Owner's Easements of Enjoyment. Subject to the provisions herein, every Member shall have a right and easement of enjoyment in and to the Association Property and the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot.
- 4.2 Extent of Members' Easements. The right and easements of enjoyment created hereby shall be subject to the following:
- 4.2.1 Utility Easements. The right of the Association to grant and reserve easements and right of ways through, under, over and across the Common Maintenance Areas for the installation, relocation, replacement maintenance and inspection of the lines and appurtenances for public or private water, public sewer, septic tanks, drainage, gas, electricity, telephone and other utilities even after title as passed to a Lot Owner.
- 4.2.2 Common Area Rules and Regulations. The right of the Association to adopt rules and regulations governing the use by the Members of the Association Property and the Common Areas, including the right of the Association to limit the number or prohibit guests of Members and to charge a reasonable admission and other fees for the use of any amenity on the Association Property, Recreational Property and Common Area.
- 4.2.3 Street Lights. The Association also reserves the right to locate at any point within the public utility easement ("PUE") which runs across the front portion of each Lot, gas and/or electric street lights together with the right to enter

upon said PUE for the purpose of installing, repairing, maintaining, relocating and removing such street lights.

- 4.2.4 Suspension of Rights to Recreational Property, Association Property and Common Areas. The right of the Association to suspend the enjoyment rights of any Member in the Recreational Property, Association Property or Common Areas (i) for any period during which any Assessment, charge, fee or dues are more than 60 days past due, subject to any limitation in the Property Owners' Association Act (Va. Code Ann. § 55.1-1800, *et seq.*); (ii) for any period during which a violation of this Declaration, Bylaws, Rules and Regulations or any other governing document exists and (iii) for any period not to exceed sixty (60) days for any infraction of its published rules and regulations; and
- 4.2.5 Suspension of Voting Rights. The right of the Association to suspend the voting rights for any period during which any assessment, charge, fee or dues are more than 60 days past due, subject to any limitation in the Property Owners' Association Act (Va. Code Ann. § 55.1-1800, *et seq.*); and
- 4.2.6 Granting of a Secured Interest. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage (which term shall include a deed of trust) said Common Area, but the rights of such mortgagee (which term shall include the beneficiary of a deed of trust) in said Common Area shall be subordinate to the rights of the Members.

4.3 Obligations of the Association: The Association shall:

- 4.3.1 Operate and maintain, for the use and benefit of all Members, all Association Property, easements and facilities and all Common Maintenance Areas, including all storm water detention facilities constructed now or in the future and subject to this Declaration and drainage easements conveyed, whether these easements and facilities are on site or off site and serving this community.
- 4.3.2 Maintain, reseed, and mow the grass and replace all dead or destroyed landscaping in the Association Property and Common Maintenance Areas as deemed necessary and prudent by the Association.
- 4.3.3 Maintain and operate the Association Property and Common Maintenance Areas.
- 4.3.4 Require any destroyed improvements, landscaping and decorative items on Association Property and Common Maintenance Areas to be reconstructed in accordance with Article 11 "Repair and Reconstruction After Fire or Other Casualty".

- 4.3.5 Except as approved by the Board of Directors, prohibit any additional improvements or alterations on Association Property and Common Maintenance Areas.
- 4.3.6 Except as approved by the Board of Directors, prohibit any construction, painting or landscaping (which term shall be defined in its broadest sense as including grass, fences, hedges, vines, trees and the like) whatsoever on the Association Property and Common Maintenance Areas, other than to maintain or reconstruct Association Property and Common Maintenance Areas.
- 4.3.7 Not, except as approved by the Board of Directors, change any original architectural landscape or decorative designs.
- 4.3.8 Maintain in full force and effect, at its cost, comprehensive general liability and property damage insurance in accordance with Article 10 "Insurance."
- 4.3.9 Maintain the entrance sign and except as approved by the Board of Directors, prohibit any changes in its design, color or content.
- 4.3.10 Maintain the pond and the surrounding area as shown on the plat included in Exhibit A.
- 4.3.11 Maintain or ensure that the responsible party maintains the street lights.
- 4.3.12 Maintain the landscaping and signage on the entrance area to the subdivision.
- 4.3.13 Maintain and make available for use by the Owners the Recreational Property, in accordance with this Declaration.
- 4.4 Delegation of Use: Any Member may delegate his rights of enjoyment of the Association Property and Common Areas to the members of his family, tenants, or contract purchaser (and members of the family of any tenant or contract purchaser) who reside on the Member's Lot or to such other persons as may be permitted by the Association. During the period of this delegation to any tenant or contract purchaser, the Member shall not have the right of enjoyment of the Common Area and facilities.
- 4.5 Damage or Destruction of Common Area. Notwithstanding any provision contained herein to the contrary, in the event any Common Area or Association Property is damaged or destroyed by an Owner, his or her tenants, guests, licensees, agents, or members of the Owner's family, the Association may repair such damage at the Owners' expense. The Association may repair such damage in a good and workmanlike manner in conformance with the original plans and specifications of the Common Area or other improvement involved, or as the Common Area may have been modified or altered, at the sole discretion of the Board. The costs of such repairs shall become an individual

000214

assessment upon the Owner's Lot and be collectable in the same manner as other assessments.

- 4.6 Eminent Domain; Condemnation. Whenever all or any portion of the Common Area is taken or damaged under the power of eminent domain, the proceedings, rights and responsibilities of the Association and the Owners shall be determined by those processes set forth in the Virginia Code.

ARTICLE 5
COVENANT FOR MAINTENANCE ASSESSMENTS

- 5.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner hereby covenants, by acceptance of a deed or other transfer document therefor, whether or not it shall be so expressed in such deed or other transfer document, is deemed to covenant and agree to pay to the Association:

5.1.1 Annual Assessments or charges;

5.1.2 Special Assessments for capital improvements and operating, repair and replacement reserve funds, such assessments to be fixed, established and collected as hereinafter provided.

5.1.3 A Closing Capitalization Assessment as provided by Section 5.12 herein.

The annual and special Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner at the time the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the Member's successor in title, except as a lien on the land, unless expressly assumed by them.

- 5.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the Members and in particular for the maintenance of the Association Property, the Common Area, and the Common Maintenance Areas, and for services and facilities devoted to this purpose and related to the use and enjoyment of the Association Property, the Common Area, and the Common Maintenance Areas, including, but not limited to, the payment of taxes and insurance thereon and repair and replacement, for the cost of labor, equipment, materials, management and supervision thereof, and for operating reserve funds, and reserve funds for repair and replacement of the Association Property, the Common Area, and the Common Maintenance Areas, and facilities thereon.

- 5.3 Basis and Maximum of Annual Assessments; Variable Rate Assessment. The Closing Capitalization Assessment, as provided by Section 5.12 herein, in addition to all other Assessments, shall be payable by the Owner at the closing of the sale of each Lot. The

annual Assessment imposed upon each Lot shall be at a rate determined by the Board of Directors. The annual Assessment may be collected annually, monthly or quarterly as the Association may determine and may be increased as hereinafter provided in Paragraphs 5.3.1 and 5.4.

- 5.3.1 Change in Annual Assessments. The Board of Directors may, after consideration of current maintenance costs and future needs of the Association, fix the annual Assessment for any year in an amount below the maximum annual Assessment set forth in Paragraph 5.3.2, as the same may be increased pursuant to Paragraph 5.4, provided that it shall be an affirmative obligation of the Association and its Board of Directors to fix such Assessments at an amount sufficient to maintain and operate the Association Property, Common Areas, and the Common Maintenance Areas, and to provide reserves for operating, repair and replacement of the Association Property, Common Areas, and the Common Maintenance Areas.
- 5.3.2 Change in Maximum of Annual Assessments. The Board of Directors may without a vote of the Members prospectively increase the maximum of the Annual Assessments, as fixed by Paragraph 5.3.1, to an amount which is no greater than twenty-five percent (25%) above the annual Assessments for the previous year. The Association may prospectively increase the maximum Assessments above the amount permitted pursuant to the preceding sentence, provided that any such change shall have the assent of a majority of the Members voting, who are voting in person or by proxy, at a meeting duly called for this purpose at which a quorum is present.
- 5.3.3 Change in Annual Assessments to Finance Purchase of the Recreational Property. Notwithstanding the provisions of Sections 5.3.1 and 5.3.2, the Board of Directors may fix the annual Assessment to include each Owner's pro rata share of the debt service of the purchase loan obtained to acquire and finance the Recreational Property, until such purchase loan, including all interest and other expenses accrued thereto, has been paid in full.
- 5.4 Determination of Annual Assessments.
- 5.4.1 Fiscal Year. The fiscal year of the Association shall consist of the twelve-month period commencing on January 1 of each year and terminating on December 31 of that year.
- 5.4.2 Preparation and Approval of Budget. Each year in the month of October, the Board of Directors shall adopt a budget containing an estimate of the total amount which it considers necessary to pay the cost of maintenance, management, operation, repair and replacement of the improvements, and the cost of wages, materials, insurance premiums, services, supplies, debt service and other expenses and the rendering to the Members of all related services. Such budget shall also include such reasonable amounts as the Board of

Directors considers necessary to provide working capital, a general operating reserve, and reserves for contingencies and replacements. The Board of Directors, on or before December 15 preceding the fiscal year to which the budget applies, shall send to each Member a copy of the budget, in a reasonably itemized form which sets forth the amount of the common expenses payable by each Member. The said budget shall constitute the basis for determining each Member's assessment as hereinbefore provided.

- 5.4.3 Reserves. The Board of Directors shall build up and maintain an adequate reserve for working capital and contingencies, and an adequate reserve for replacement of all facilities on the Association Property, Common Area, and the Common Maintenance Areas, which shall be collected as part of the annual Assessment as hereinbefore provided. All funds accumulated for reserves shall be kept in a separate bank account, segregated from the general operating funds, and, if the Board of Directors deems it advisable, funds accumulated for each type of reserve shall be kept in a separate bank account, identified by reference to the specific category of reserve. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. Except where an emergency requires an expenditure to prevent or minimize loss from damage to, or deterioration of, the Association Property, Common Area, and the Common Maintenance Areas, reserves accumulated for one purpose may not be expended for any other purpose unless approved by the Members of the Association. If the reserves are inadequate for any reason, including non-payment of any Owner's Assessment, the Board of Directors may at any time levy a future assessment in accordance with the provisions hereof, which may be payable in a lump sum or in installments as the Board of Directors may determine. In the event there is a balance of reserves at the end of any fiscal year and the Board of Directors determines the Association may lose its tax exempt status due to such balance, the balance shall be applied to the next year's budget in accordance with standard accounting principles.
- 5.4.4 Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt the annual budget or adjusted budget for any fiscal year shall not constitute a waiver or release in any manner of a Member's obligation to pay his Assessment as herein provided, whenever the same shall be determined, and in the absence of the annual budget or adjusted budget, each Member shall continue to pay the Assessment at the then-existing rate established for the previous fiscal period in the manner such payment was previously due until notified otherwise.
- 5.4.5 Accounts. Except as otherwise provided, all sums collected by the Board of Directors with respect to Assessments against the Members may be commingled into a single fund but shall be held for each Member in accordance with his votes in the Association.

- 5.5 Special Assessments for Capital Improvements and Operating Reserves. In addition to the annual Assessments authorized by Paragraph 5.3, the Association may levy in any Assessment year a special Assessment (which must be fixed at one uniform rate for each Lot) applicable to that year only, for the purpose of defraying in whole or in part, the cost of any reconstruction, repair or replacement of a capital improvement upon the Association Property, Common Area, and the Common Maintenance Areas, including the necessary fixtures and personal property related thereto, and for operating the Association Property, Common Area and the Common Maintenance Areas, for which a reserve fund does not exist or is not adequate, provided that any such Assessment shall have the assent of the majority of the Members who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present.
- 5.6 Date of Commencement of Annual Assessments; Due Dates. Except as exempted herein, the annual Assessments as to any Lot shall commence on the date hereof and shall be due and payable once per year, or other regular interval that the Board of Directors may from time to time designate. The due date of any special Assessment under Paragraph 5.5 hereof shall be fixed in the resolution authorizing such Assessment.
- 5.7 Duties of the Board of Directors. In the event of any change in the annual Assessment as set forth herein, the Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each Assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and Assessments applicable thereto which shall be open to inspection by any Member. Written notice of the Assessment shall thereupon be sent to every Member subject thereto. The Association shall, upon demand at any time, furnish to any Member liable for said Assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid, or the amount of any unpaid Assessment, a reasonable charge may be made by the Association for the issuance of such certificate. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.
- 5.8 Non-Payment of Assessments; Remedies of Association. Any Assessment, or portion thereof, not paid when due shall be delinquent. If the same is not paid within sixty (60) days after the due date, then a late charge of Twenty-five Dollars (\$25.00) or ten percent (10%) of the amount of each Assessment or installment thereof not paid when due, whichever is greater, shall also be due and payable to the Association. If any Assessment or portion thereof is delinquent for a period of more than five (5) days, then if not paid within ten (10) days after written notice is given to the Member to make such payment, the entire unpaid balance of the Assessment shall be declared due and payable in full, and legal proceedings may be instituted to enforce a lien against such Member's Lot in accordance with Article 13 "Compliance and Default." Such notice shall be sent by certified mail, or courier service (Federal Express, UPS, etc.) to the Member both at the address of the Lot or at any other address or addresses the Member may have designated to the Association in writing, specifying the amount of the assessments then due and payable, together with authorized late charges and interest accrued thereon. In addition, the Association may cause to be recorded among the land records of Roanoke County,

Virginia, a memorandum of lien against the Lot and Owner thereof for all charges specified herein. Any Assessment or portion thereof, together with authorized late charges, not paid when due can, at the option of the Board of Directors, bear interest from the date of delinquency until paid at twelve percent (12%) per annum, or the maximum rate allowed by law, whichever is greater. The Board of Directors may suspend the voting rights of the Member or the rights of the Member and his Occupants to use the Recreational Property, if any, during the period in which any Assessment or portion thereof remains unpaid and after at least ten (10) days written notice is given to the Member as aforesaid, and the Association may bring an action at law against the Member personally obligated to pay the same or foreclose its lien against such Member's Lot, in which events late charges, interest and costs of collection shall be included in such lien, with such costs of collection to include court costs, the expenses of sale, any expense required for the protection and preservation of the Lot, and reasonable attorney's fees. All payments on account shall be applied first to the aforesaid costs of collection, then to late charges, then to interest, and then to the Assessment lien first due. All late charges and interest collected shall be credited to the Common Expense fund. Each Member vests in the Board of Directors the right and power to bring all actions against him personally for the collection of such Assessments as a debt and to foreclose the aforesaid lien in the same manner as other liens for the improvement of real Property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all Members. No Member may waive or otherwise escape liability for the Assessment provided for herein by non-use of the Lot, Association Property, Common Areas, or the Common Maintenance Areas or by vacating the lot line between adjoining Lots. The requirements and time limitations for filing the lien are the same as contained in the Virginia Property Owners Association Act, Va. Code Ann. § 55.1-1800, et. seq. (the "Act"). The provisions of this Act as presently existing, or as it may be amended from time to time, including the definitions therein contained, are adopted and included herein by express reference.

- 5.9 Subordination of the Lien to First Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage on a Lot. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot by foreclosure of any first mortgage on the Lot, or any proceeding in lieu thereof, shall extinguish the lien of such Assessments (but not the personal obligation to pay) as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.
- 5.10 No Alienation of Lots. No Member shall be permitted to convey, mortgage, hypothecate, sell, lease give, or devise his Lot unless and until he (or his personal representative) shall have paid in full to the Association all unpaid Assessments against his Lot, except as otherwise specifically provided herein. The Association shall promptly furnish to any Member (or his devisee or personal representative) requesting the same in writing pursuant to this Section, a recordable statement certifying whether or not such Member is then obligated for any outstanding Assessments or expenses previously levied against such Lot and the amount, if any, then outstanding. In the event that the Lot is subject to

outstanding Assessments or expenses previously levied against such Lot, the statement shall certify any waiver of, or failure or refusal to exercise, the right of the Association to prevent the disposition of such Lot, in all cases where the Association allows such disposition. Failure or refusal to furnish promptly such a statement in such circumstances shall make the above-mentioned prohibition inapplicable to any such disposition of the Lot. Any such statement shall be binding on the Association and every Member.

5.11 Exempt Property. The following property which is subject to this Declaration, shall be exempted from all Assessments, charges and liens created herein, in accordance with the following:

5.11.1 The Association Property, Common Areas, and the Common Maintenance Areas;

5.11.2 On all Lots which are owned by Charles R. Simpson, Inc. ("Simpson"), and which were purchased by Simpson from VB Land, LLC, for so long as Simpson remains as the owner of such Lot. At the time Simpson conveys any Lot purchased from VB Land to a third party, such purchaser shall be required to pay all amounts required under this Declaration; except that, in the event Simpson conveys, by separate deed transfer, any Lot to a Class A licensed builder or other third party that does not intend to occupy the home constructed on said Lot, such party shall not be obligated to pay any Assessments or any other costs associated with the Declaration unless there is occupancy of the home constructed on the Lot while such party owns the Lot. This provision shall apply to Lots 1A, 2A, 4, 9, 18, 19A, 20A, and Lot 13A in Section 1 of the Property, and Lots 1, 2A, 3A, 4A, 5, 7, 12, 19A, 20A, 22, 23, 24, 25 and 30 in Section 2 of the Property; and

5.11.3 On Lot 3, containing 1.070 acres, in Section 6 of the Property as shown on Plat recorded in the Clerk's Office of the Circuit Court of Roanoke County, Virginia, as Instrument No. 201004811 and New Tract 3A-3, containing 3.810 acres, as shown on plat showing the subdivision and combination of Tract 3A (22.407 acres) "Old Mill Plantation" Section No. 1, dated April 21, 2010, prepared by Lumsden Associates, P.C., recorded in the Clerk's Office of the Circuit Court of Roanoke County, Virginia, as Instrument No. 201003991. No Assessments shall begin to accrue or become due and owing on said Lots until the issuance of a certificate of occupancy and conveyance to a third party. Prior to and during the construction of such improvements, these Lots shall not be subject to Section 14.28 of this Declaration or Review Committee approvals. These Lots shall otherwise be subject to the Declaration.

5.12 Closing Capitalization Assessment. At such time as any Owner acquires a Lot, the Owner shall pay at the closing of such Lot to the Association the sum of ONE THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$1,250.00) to be used for maintenance and operation of the Association, Association Property and Recreational Property. These

payments shall be due upon any resale of a Lot and shall be paid at closing by the new Owner.

- 5.13 Combination and Subdivision of Lots and the Obligation for Assessments. Any Lot or Lots that have been combined and lot lines vacated in accordance with the requirements of Roanoke County prior to the recordation of this Declaration shall be treated as a single Lot in the application of Assessments, and the provision of votes pursuant to Section 2.2 herein. It shall be the obligation of the Lot Owner to provide documentation of lot combination and line vacation in accordance with this Section if he or she wishes to only pay one Assessment for two or more combined Lots. If after the date of recordation of this Declaration two or more Lots are combined, the obligation to pay Assessments and the provision of votes pursuant to Section 2.2 herein for each original Lot, as depicted on Exhibit A, shall remain in full force and effect and shall be binding on any subsequent purchaser of the combined parcel. In the event a Lot is subdivided and added to adjacent parcels in accordance with Section 14.29, the obligation to pay assessments for the subdivided Lot shall be determined by the parties to that transaction. If no agreement is reached, the assessment owed for that Lot will be divided equally among the Members. In no way shall the division of such assessment obligation between two or more Members result in multiple Members being able to issue more than one vote for that subdivided Lot unless new separate assessments are created

ARTICLE 6 RECREATIONAL PROPERTY

- 6.1 Operation and Maintenance. The Association shall operate and maintain, for the use and benefit of all Members, the Recreational Property. Nothing herein shall prohibit the Association from managing the Recreational Property through the same Managing Agent (as hereinafter defined) used to operate the Association.
- 6.2 Use and Enjoyment of the Recreational Property. Members shall have the exclusive right to use and enjoy the Recreational Property. The Association shall not permit any non-Members entry to or use or enjoyment of the Recreational Property, except Occupants who are accompanied by a Member; except that, any Occupant who is a tenant or lessee of a Lot may be permitted by the Association to use and enjoy the Recreational Property for the duration of such Occupant's lease or occupation of such Lot.
- 6.3 Suspension of Use and Enjoyment. The Board of Directors may suspend the right of any Member, including any Occupant, to use and enjoy the Recreational Property, who is delinquent in the payment of any Assessment or other expense in accordance with Section 5.8 herein.

ARTICLE 7 MANAGING AGENT

10.1.1 All insurance policies relating to the Association Property, Common Areas, or the Common Maintenance Areas shall be purchased by the Board of Directors. Neither the Board of Directors nor the Managing Agent shall be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure due to the unavailability of such coverage from an insurance company having the qualifications set forth herein or if, in the opinion of the Board of Directors, such coverage is prohibitively expensive.

10.1.2 Each such policy shall provide that:

10.1.2.1 The insurer waives any right to claim by way of subrogation against the Association, the Board of Directors, the Managing Agent or the Members, and their respective agents, employees, guests and, in the case of the Members, the members of their households.

10.1.2.2 Such policy shall not be cancelled, invalidated or suspended due to the conduct of any Member (including his invitees, agents and employees) or of any member, officer or employee of the Board of Directors or the Managing Agent without a prior demand in writing that the Board of Directors or the Managing Agent cure the defect and without sixty days having elapsed after such demand without a cure of the defect.

10.1.2.3 Such policy may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least a sixty (60) day prior written notice to the Board of Directors and the Managing Agent and, in case of physical damage insurance, to all the mortgagees of the Lots, if any.

10.1.2.4 All policies of insurance shall be written by reputable companies licensed to do business in the Commonwealth of Virginia and holding a rating of "AAA", or better, by Best's Insurance Reports and a policyholder's rating of "A" or better. Physical damage policies shall be in form and substance acceptable to the mortgagees of the Lots.

10.2 Fire and Extended Coverage.

10.2.1 All Lot Owners shall be responsible for securing policies for fire and extended coverage, vandalism, malicious mischief, windstorm, debris removal, and water damage endorsements, for the structure on each individual Lot, in an amount equal to 100% of the current replacement cost of the property (exclusive of the land, excavations, foundations and other items normally

excluded from such coverage), without deduction for the depreciation (such amount to be redetermined annually by the Board of Directors with the assistance of the insurance company affording such coverage). All such policies shall be approved by the Board of Directors and the Board of Directors shall be a named party as their interests may appear.

10.2.2 Copies of all policies and any renewals shall be filed with the Board of Directors of this Association.

10.3 Liability Insurance. The Board of Directors shall obtain and maintain comprehensive general liability in the amount of One Million Dollars (\$1,000,000.00) (including libel, slander, false arrest and invasion of privacy coverage for the Officers) and property damage insurance in such limits as the Board of Directors may from time to time determine, insuring each member of the Board of Directors, the Officers, the Managing Agent, the County of Roanoke, and each Member against liability to the public or to the Members (and their invitees, agents and employees) arising out of, or incident to, the ownership and/or use of the Association Property, Common Areas, and the Common Maintenance Areas. Such insurance shall be issued on a comprehensive liability basis and shall contain: (a) a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (b) hired and non-owned vehicle coverage; (c) host liquor liability coverage with respect to events sponsored by the Association; (d) deletion of the normal products exclusive with respect to events sponsored by the Association; and (e) a "severability of interests" endorsement which shall preclude the insurer from denying liability to a Member because of negligent acts of the Association or of another Member. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than One Million Dollars (\$1,000,000.00) covering all claims for bodily injury or Property damage arising out of one occurrence. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits may also be obtained.

10.4 Other Insurance. The Board of Directors shall obtain and maintain:

10.4.1 Workmen's compensation insurance if and to the extent necessary to meet the requirements of law;

10.4.2 Such other insurance as the Board of Directors may determine or as may be requested from time to time by a majority of the Members.

10.5 Insurance Trustee.

10.5.1 All physical damage insurance policies purchased by the Board of Directors shall be for the benefit of the Association, the Members, and their mortgagees, as their interests may appear, and shall provide that, with respect to any single loss, if the proceeds thereof exceed Twenty-Five Thousand Dollars (\$25,000.00) then all such proceeds shall be paid in trust to such lending institution in the general vicinity of where the Property is located with trust

000229

powers as may be designated by the Board of Directors (which trustee is herein referred to as the "Insurance Trustee"). If such proceeds do not exceed Twenty-Five Thousand Dollars (\$25,000.00) then all such proceeds shall be paid to the Board of Directors to be applied pursuant to the terms of Article 7.

10.5.2 The Board of Directors may enter into an Insurance Trust Agreement with the Insurance Trustee which shall provide that the Insurance Trustee shall not be liable for payment of premiums, the renewal of the policies, the sufficiency of coverage, the form or contents of the policies, the correctness of any amounts received on account of the proceeds of any insurance policies nor for the failure to collect any insurance proceeds. The sole duty of the Insurance Trustee shall be to receive such proceeds as are paid to it and to hold the same in trust for the purposes elsewhere stated in this Declaration for the benefit of the insured and their beneficiaries thereunder.

10.6 Board of Directors as Agent. The Board of Directors is hereby irrevocably appointed the agent for each Member, each mortgagee, other named insured and their beneficiaries and any other holder of a lien or other interest in the Association to adjust and settle all claims arising under insurance policies purchased by the Board of Directors and to execute and deliver releases upon the payment of claims.

ARTICLE 11

REPAIR AND RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY

11.1 In the event of damage to, or destruction of, all or any of the improvements on any Association Property, Common Area, the Common Maintenance Areas, or any Lot as a result of fire or other casualty, the Board of Directors or respective Lot Owner shall cause and supervise the prompt repair and restoration of such improvements including landscaping in substantial accordance with the plans and specifications under which the improvements were originally constructed. The Board of Directors and/or Lot Owner shall proceed towards reconstruction of such improvements as quickly as practicable under the circumstances. The Board of Directors shall obtain funds for such reconstruction of the Association Property, Common Area, the Common Maintenance Areas from the insurance proceeds and any special assessments that may be necessary after exhaustion of reserves for the repair and replacement of such improvements. Any dwelling or outbuilding on any Lot which may be destroyed in whole or in part by fire, windstorm or for any other cause or act of God, must be rebuilt, and all debris must be removed, and the Lot restored to tidycondition with reasonable promptness. In no event shall debris remain longer than three (3) months after the casualty.

ARTICLE 12

MORTGAGES

12.1 Notice to Board of Directors. A Member who mortgages his Lot may notify the Association of the name and address of his mortgagee and file a confirmed copy of the note and mortgage with the Board of Directors. In the event of a sale or transfer of a Lot

000230

to a third party, the purchaser or transferee shall notify the Association in writing of his interest in the Lot purchased or received.

- 12.2 Notice of Default, Casualty or Condemnation. The Board of Directors when giving notice to any Member of a default in paying an Assessment or any other default, may simultaneously send a copy of such notice to the mortgagee of such Lot. Each mortgagee may also be notified of any casualty giving rise to a possible claim under any insurance purchased under Article 10. For purposes of this Section only, when notice is to be given to a mortgagee, the Board of Directors may also give such notice to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Veterans Administration, the Federal Housing Administration, the Government National Mortgage Association and any other public or private secondary mortgage market entity participating in purchasing or guaranteeing Mortgages of Lots if the Board of Directors has notice of such participation.
- 12.3 Notice of Amendment of Declaration or Bylaws. The Board of Directors may elect to give notice to all mortgagees, seven (7) days prior to the date on which the Members meet in accordance with the provisions of the Bylaws, when the purpose of the meeting is to make material changes to this Declaration or the Bylaws which would affect a mortgagee's security position.
- 12.4 Other Rights of Mortgagees. All mortgagees or their representatives shall be entitled to attend meetings of the Association and shall have the right to speak. All such mortgagees shall have the right to examine the books and records of the Association and, upon written request, to receive financial reports and other budgetary information.

ARTICLE 13 COMPLIANCE AND DEFAULT

Each Member shall be governed by, and shall comply with, all of the terms of this Declaration, and the rules and regulations promulgated by the Association and any amendments of the same. A default by a Member shall entitle the Association, acting through its Board of Directors or through its agent, to the following relief

- 13.1 Legal Proceeding. Failure to comply with any of the terms of the Declaration, and the rules and regulations shall be grounds for relief which may include, without limiting the same, an action to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of all Assessments, any other relief provided for herein including reasonable attorney fees, or any combination thereof, and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association, the Board of Directors, its agent, or if appropriate, by an aggrieved Member.
- 13.2 Additional Liability. Each Member shall be liable for the expense of all maintenance, repair or replacement to Association Property, Common Area and the Common Maintenance Areas rendered necessary by his act, neglect or carelessness, or the act,

neglect or carelessness of any Member of his family or his employees, agents or licensees, but only to the extent that such expense is not covered by the proceeds of any insurance carried by the Association. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its right subrogation.

- 13.3 Costs and Attorneys' Fees. In any proceeding arising out of any alleged default by a Member, the Association shall be entitled to recover the costs of the proceeding, and such reasonable attorney's fees as may be determined by the court.

In the event any Owner or purchaser of a Lot files a suit against the Association, the party filing such legal action shall be responsible for all court costs and attorney fees incurred by the Association, if such legal action is dismissed or decided in favor of Association.

In the event any Owner or purchaser of a Lot files a suit against the Association, the Lot Owner filing such legal action shall also be responsible for all court costs and attorney's fees incurred by the Association, if said legal action is decided in favor of said Lot Owner or the decision is consistent with a previous settlement offer made by the Association.

- 13.4 No Waiver of Rights. The failure of the Association, the Board of Directors, or of a Member to enforce any right, provision, covenant, or condition which may be granted by this Declaration, or the rules and regulations, shall not constitute a waiver of the right of the Association, the Board of Directors or the Member to enforce such right, provision, covenant, or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any Member pursuant to any term, provision, covenant or condition of this Declaration, or the rules and regulations shall be deemed to be cumulative, and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such privileges as may be granted to such party by the Declaration or the rules and regulations, or at law or in equity.

- 13.5 Abatement and Enjoinment of Violations by Owners. The violation of any rule or regulation adopted by the Association, or the breach of any provision of this Declaration, shall give the Association or Managing Agent the right, in addition to any other rights set forth herein or at law, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

ARTICLE 14
RULES, REGULATIONS, AND RESTRICTIONS

The Property, including all improvements comprising a part thereof, shall be subject to the rules and regulations set forth as follows:

- 14.1 No more than two motor vehicles may be parked on the exterior of a Lot at any time (this is not intended to prevent an Owner from having more than two cars parked on the exterior for a short period of time should the Owner be having a party or similar

temporary gathering). This does not preclude the parking of additional vehicles in a garage.

- 14.2 No improper, offensive or unlawful use shall be made of any Lot or part thereof. No Owner shall permit or suffer anything to be done or kept in or on his Lot, which will (i) increase the rate of or cause the cancellation of insurance on the Lot, (ii) obstruct or interfere with the rights of other Owners or Occupants of the Property (iii) be a nuisance to those Owners or Occupants, or (d) interfere with the peaceful possession or proper use of any portion of the Property.
- 14.3 To preserve the architectural appearance of the Lots, no construction, painting or other changes of any nature whatsoever shall be commenced or maintained by any Owner with respect to the exterior of any structure or any other portion of the Lot whether appurtenant thereto or not, without first obtaining the written consent of the Review Committee. An Owner may make improvements and alterations within his structure; provided however that no Owner shall make any structural alterations or remove any portion thereof or make any additions thereto or do anything which would or might jeopardize or impair the safety, soundness or structural integrity of that structure or any other structure; nor shall any Owner impair any easement without first obtaining the written consent of the Association and that of the Owner or Owners and their mortgagees for whose benefit such easement exists. No alteration of original landscaping (which term shall be defined in its broadest sense as including grass, fences, hedges, vines, trees and the like), or change in the exterior of any Lot or Common Maintenance Area, including color, will be permitted without first obtaining written consent of the Review Committee. In the event an Owner violates this Section, the Board of Directors shall have the right without notice to remove any alteration and restore the original alteration or landscaping at the Owner's expense. Said expenses shall be a lien, as is herein defined, on the Owner's Lot. No healthy trees may be cut unless terminally diseased or extensively storm damaged without first obtaining written consent of the Review Committee.
- 14.4 Any Lot Owner who rents his Lot to a lessee(s) shall deliver to the Association a written statement designating the name or names of those persons entitled to use the Lot, together with a written covenant from the party or those parties in favor of the Association stating that there will be full compliance with all the terms and provisions of this Declaration, the Articles, and Bylaws and all rules and regulations adopted thereunder. In the event that such covenants are violated, the aforesaid Owner shall cause such party or parties to vacate the Lot and in the event such party or parties do not vacate the Lot, the Association shall take whatever measures are necessary to have party or parties removed from the Lot and shall assess the Owner for any costs or attorney fees caused by such measures. No lease term on any Lot shall be for a period less than one (1) year. This provision prohibits any Owner from renting or leasing a Lot or any portion thereof on a nightly, weekly or other short term basis, including, without limitation, any rental or lease agreement arranged through online platforms such as AirBnB, Vacation Rental By Owner (VRBO), HomeAway, etc.

- 14.5 No animal, other than common household pets shall be kept or maintained in any Lot or thereabout. Common household pets shall not be kept, bred, or maintained for commercial purposes on any Lot. No pet shall disturb or cause a nuisance to any Member. Excessive barking or other noise associated with any household pet or pets shall constitute a nuisance and shall be deemed a violation of this Section. Dogs shall be leashed or under the control of their owner when not on the Lot on which they reside. When not leashed or under the control of their owner, dogs must be contained on a Lot by either a fence approved by the Review Committee or an "Invisible Fence" maintained either by buried wire or radio signal.
- 14.6 Except as the Board of Directors may otherwise provide, or as otherwise provided herein, no commercial pick-up trucks, commercial vehicles, recreation vehicles, abandoned or disabled vehicles, motor homes, motorcycles, campers, boats or boat trailers may be parked upon any Association Property or Lot. However, any such vehicles may be kept in a fully-enclosed garage. No car covers shall be allowed. No unlicensed vehicles, golf carts, ATVs, or vehicles with expired inspection stickers shall be allowed on any street or Lot except within a fully-enclosed garage. No repair work to any type of motor vehicle, other than minor repairs, shall be conducted on Association Property, on any street, or any Lot, except within a fully-enclosed garage. Notwithstanding the foregoing, a moped or a motorized bicycle may be kept in a structure, provided that same is not visible from the street. All vehicles in violation of the above rules and regulations are subject to towing without notice at Owner(s) expense.

No temporary house, trailer, tent, garage, or other outbuildings shall be placed or erected on any Lot; provided, however, that the Board of Directors may grant permission for any such temporary structure for storage or use during construction. No such temporary structure shall be used as a dwelling place.

- 14.7 Unless written approval from the Review Committee is given, no awnings, shades, or other item shall be attached to, hung or used on the exterior of any window or door of the structure or on the exterior of any building. No screen or storm door shall be permitted on any windows or doors other than those approved by the Review Committee. No foil, window tinting or other sun-shielding materials or devices shall be permitted upon any glass surfaces. Outside clothes lines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed or maintained on any portion of any Lot, nor shall any clothing, interior furniture or rugs, or any item be hung or placed outside of a structure on any portion of any Lot. All glass surfaces, windows, and doors shall be cleaned and maintained in a clean state inside and outside by the Owner or Occupant. Nothing herein contained shall prohibit lawn furniture on rear patios, or decks. In the event any storm door is approved by the Review Committee, such storm door shall be maintained in a proper state of repair by and at sole expense of such Owner or Occupant. If such storm door is not properly maintained, the Association may maintain such door and charge the repair thereof to the Owner. If an Owner or Occupant is planning on storing such service items as lawnmowers, grills, etc. outside of the dwelling, such Owner or Occupant must construct a screening fence to shield and hide the items

from view. Plans and specifications for such screening fence must be approved by the Review Committee prior to construction.

- 14.8 No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of any Lot, except in containers specifically designated for such residential purpose by Roanoke County or the Association, and such containers shall be kept out of view at all times. The Board of Directors reserves the right to approve the refuse containers used by Owner and Occupants, and such containers shall be purchased at Owner's expense, unless provided by Roanoke County. On Lots without garages, trash, garbage and their containers shall be kept in areas approved by the Board of Directors. Trash Containers may be brought to the curb no earlier than 7 PM the night before pickup pick up and must be removed from curb by 7 PM the day of pick up.
- 14.9 No odors shall be permitted, so as to render any portion of the Property unsanitary, unsightly, offensive, or detrimental to persons using or occupying other Lots. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes and which have been approved in writing by the Board of Directors, shall be located, used, or placed on any Lot.
- 14.10 Unless installed by the Developer or approved in writing by the Review Committee, no exterior antennas, aerials, satellite dishes, or other apparatus for the reception of television, radio, or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Property. All additional electric, telephone, cable TV or other utility lines shall be installed below ground. No additional overhead utility lines shall be permitted for any purpose.
- 14.11 A Lot Owner shall not display on the outside of any structure or Lot an advertisement, poster, a political sign, or any other type of sign, except as follows: If the Lot is for sale or rent, an Owner may display a standard "For Sale" or "For Rent" sign, as typically provided by a realtor. In no case shall the face of such sign exceed ten (10) square feet. Signs shall be maintained in neat and tidy condition. Signs must be metal or vinyl faced and professionally produced, with either a single or double painted wooden or metal post or posts. Homemade signs are not permitted.
- 14.12 The Board of Directors shall, at the request of the mortgagee of any Lot, report any delinquent Assessments and fines due from the Owner of such Lot.
- 14.13 Employees, agents, and contractors of the Association in the performance of any right, responsibility, or obligation set forth herein shall not be sent off any Lot by any Owner at any time for any purpose. No Owner or Resident shall direct, supervise, or in any manner attempt to assert any control over the employees, agents, or contractors of the Association. In order to implement effective insect and fire control, the Association reserves for itself and its employees, agents, and contractors the right to enter upon any Lot on which a residence has not been constructed, and upon which no landscaping plan has been implemented, such entry to be made at the expense of the Lot Owner by

personnel with tractors or other suitable devices, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of the Association detracts from the overall beauty, setting and safety of the Property. The Association and its agents may likewise enter upon such Lot to remove any trash which has collected on such Lot. The provisions in this subsection shall not be construed to create an obligation on the part of the Association to perform any act or service.

- 14.14 Regulations and fines promulgated by the Board of Directors concerning the use of the Property shall be observed by the Owners and Occupants; provided, however that copies of such regulations are furnished to each Owner prior to the time the said regulations become effective. Each Owner shall be responsible for providing copies of regulations, if and when received, to its Occupants.
- 14.15 No flammable, combustible or explosive fluid or chemical substance shall be kept in any structure except such as are required for normal household use, and except for a portable gas barbecue grill. No Owner shall permit or suffer anything to be done or kept in its dwelling which will increase the rate of insurance as to other Lot Owners or as to their Lots or to the Association as to the Association Property, Common Areas, or the Common Maintenance Areas.
- 14.16 No person shall be permitted to use the Common Areas or the Recreational Property, if any, located thereon except in accordance with the rules and regulations established and adopted from time to time by the Board of Directors.
- 14.17 No Owner shall make or permit any disturbing noises or do or permit anything to be done on any Lot which will interfere with the rights, comforts or conveniences of other Owners.
- 14.18 No solar panels shall be erected on any Lot or structure without advance approval in writing by the Review Committee.
- 14.19 No Lot or any improvements thereon shall be used for any purpose other than residential purposes. No structure shall be permitted on any Lot which replaces the original structure and improvements, unless such structure or improvement is the same as the original structure destroyed or removed, or such structure or improvement is constructed in accordance with the requirements of a new structure, as provided herein.
- 14.20 No underground storage tanks of any nature, auxiliary building or structure or the like or aboveground swimming pools which are detached from a structure and not originally constructed as part of the original improvements to the Lot shall be permitted on a Lot, except as approved by the Review Committee.
- 14.21 The Association, or its Managing Agent, shall have the right, after seven (7) days' written notice, to remove any items which are unsightly (including, without limitation and for example, bird baths, painted rocks, etc.) or which are infractions of these restrictions.

000236

Any expense incurred by such removal, including costs and reasonable attorney fees, shall be the expense of such Lot Owner. The Review Committee shall have sole discretion regarding what is deemed unsightly.

14.22 The personal Property of all Owners shall be stored within their structures.

14.23 Fencing.

14.24.1 Fencing must be integral to the design of the dwelling and all fencing must be approved in advance in writing by the Review Committee.

14.24.2 Fences shall not be placed so that they appear to run together from Lot to Lot. No fence will be allowed in a front yard. Fences inside a rear yard may be permitted only with the prior written approval from the Review Committee. Fencing of rear yards must extend off the rear corners of the house. Fences may go towards the side property line from the rear corner of the house on one side only; the other side must go straight back to the rear property line. Exceptions to these design standards may be made by the Review Committee based on specific circumstances and the uniqueness of a particular Lot. An example might be a full backyard fencing may be approved on a corner Lot or a Lot restrictive size such as an extreme "pie-shape" Lot.

14.24.3 Chain Link or stockade-style fencing will not be permitted.

14.24.4 Fencing which faces a street on the front or side should be picket style or some other finished material and painted or stained to match the dwelling color. Rear yard fencing must be stained and may be of treated wood posts and wire, split rail, or painted treated lumber or redwood.

14.24 Each Lot Owner shall maintain its Lot and the area between the front lot line and the street curb or pavement and landscaping thereon, including timely lawn mowing and snow removal. The Association reserves the right to perform reasonable maintenance on any Lot where such maintenance is deficient, without permission from any party, and charge the cost thereof to the subject Lot Owner.

14.25 Only one specific type of mailbox and post shall be erected on any Lot, and said mailbox and post type shall be approved by the Review Committee.

14.26 During construction of any dwelling, the Lot Owner is responsible to insure that erosion control measures are enforced (i.e. silt fences, tracking mud on roads, etc.) and port-o-johns and dumpsters are provided and removed and/or emptied as required. Construction debris will not be allowed to accumulate on the site. The Lot Owner is also responsible for any damage to roadways, curbs and gutters due to transportation of any construction equipment or materials. The Association reserves the right, without notice to Lot Owner, to correct any violation of this article at the Lot Owner's expense.

- 14.27 The Association and any Lot Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions and covenants imposed hereby. Failure by the Association or by any Lot Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter, and the invalidation of one or more of the restrictions, conditions, covenants, or reservations herein shall not affect the right to enforce the remaining restrictions.
- 14.28 Unless otherwise provided herein, no Lot shall be subdivided so as to create two (2) or more Lots from one (1) single Lot; however, a Lot may be divided and added to the adjoining Lots. At no time shall the vacation of lot lines or the combination of Lots result in release from liability for payment of assessment on such Lot or Lots.

ARTICLE 15
TERMINATION OF ASSOCIATION

- 15.1 Termination of the Association may be effected only by an affirmative vote of three-quarters (3/4) of the Members and only after a termination agreement has been executed by three quarters (3/4) of the Membership and recorded in the Clerk's Office, Circuit Court of Roanoke County, Virginia. In addition to the foregoing, termination shall not be allowed unless two-thirds (2/3) of the holders of all Mortgages that are liens on the Lots consent in the aforesaid termination agreement.
- 15.2 In the event of termination, the Members shall own the Association Property as tenants in common in undivided shares with any holders or mortgages or deeds of trust on Lots having a lien on such undivided shares. Such undivided share of each Member shall be in the entire Association Property on an equal fractional basis with all other Members. So long as the tenancy in common lasts, each Member or his heirs, successors or assigns shall have an exclusive right of occupancy of the Association Property. All funds held by the Association including insurance proceeds, if any, shall be held for the Members in the same proportion as their former fractional interests. Any costs incurred by the Association in connection with the termination shall be considered an Association expense.
- 15.3 Following termination, the property that was formerly the Association Property may be partitioned and sold upon the application of any Member, and, if the Board of Directors determines by not less than a majority vote to accept an offer for the sale of such Association Property, or portion thereof, each member shall be bound to execute such deeds and other documents reasonably required to effect such sale at such times and in such form as the Board of Directors directs. In such event, any action for partition or other division of the Association Property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.
- 15.4 In the event of termination, the Board of Directors, acting collectively as agent for all Members, shall continue to have such powers as are granted in this Declaration notwithstanding the fact that the Association itself may be dissolved upon termination.

ARTICLE 16
TERMINATION OF DEVELOPER RIGHTS

- 16.1 The Developer and the Association acknowledge and agree that adoption of this Declaration and the Amended and Restated Bylaws shall be the last acts taken under the Developer's rights as Developer and Declarant of the Property and that immediately thereafter said Developer rights shall be hereby terminated, effective as of the date immediately succeeding the date of recordation. From the date thereof, the Developer shall have no further rights or obligations as developer or Declarant of the Property or the Association.

ARTICLE 17
MISCELLANEOUS PROVISIONS

17.1 Duration and Amendment.

- 17.1.1 Duration. The provisions of this Declaration run with and bind all the Property, the Association Property, Common Areas, and the Common Maintenance Areas, and shall inure to the benefit of and be enforceable by the Association or any Owner subject to this Declaration, including such Owner's respective legal representation, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time the restrictions shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the Members holding more than three-fourths (3/4) of the votes of the Membership has been recorded, agreeing to terminate or change said restrictions in whole or in part; provided, however, that no such agreement to terminate or change shall be effective unless written notice of the proposed agreement is sent to every Member in accordance with the Bylaws.

- 17.1.2 Amendment by Membership. Unless specifically prohibited herein, this Declaration may be amended by an instrument signed by Members holding not less than three-fourths (3/4) of the votes of the Membership at any time until the end of the initial thirty (30) year term. Any amendment must be properly recorded to be effective. No amendment shall change architectural, engineering, landscaping (which term shall be defined in its broadest sense as including grass, hedges, vines, trees and the like) or decorative design of the community without the written approval of the Review Committee. Any amendment or alteration to this Declaration shall take effect only after the Association has caused it to be recorded as an amended declaration among Roanoke County land records.

- 17.1.3 Amendment by Board of Directors. This Declaration may be amended unilaterally at any time, and from time to time, by the Board, with notice to the Owners, if (i) such amendment is necessary to bring any provision into compliance with any applicable governmental statute, rule or regulation or

judicial determination which shall be in conflict therewith; (ii) such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Property or any Lot or Lots; or (iii) such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Property or any Lot or Lots; provided however, that any such amendment shall not adversely affect the title to any Owner's Lot unless Owner shall consent in writing.

- 17.2 Consent of First Mortgagees. This Declaration contains provisions concerning various rights, priorities, remedies and interests of the mortgagees of Lots. Such provisions are to be constructed as covenants for the protection of the mortgagees on which may rely in making loans secured by mortgages on Lots. Accordingly, no amendment or modification of this Declaration impairing such rights, priorities, remedies or interests of a mortgagee shall be adopted without the prior written consent of such mortgagee. If there is more than one mortgagee holding mortgages on the Lots, it shall be sufficient to obtain the written consent of the mortgagee or mortgagees holding first liens on seventy-five percent (75%) of the Lots encumbered by Mortgages.
- 17.3 Notices. Any notice required to be sent under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person as such appears on the records of the Association at the time of mailing.
- 17.4 Non-Waiver. The failure of any party to enforce any right, restriction, or remedy contained in this Declaration shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto.
- 17.5 Construction and Interpretation. The Board of Directors may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations, and in making any finding, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Board of Directors shall take into consideration the best interests of the Members to the end that the Property shall be preserved and maintained in a high quality manner.
- 17.6 Severability. All of the covenants, conditions, restrictions and regulations contained in this Declaration are hereby declared to be severable and a finding by any court of competent jurisdiction that any of them or any clause or phrase thereof, is void, unlawful or unenforceable, shall not affect the validity or enforceability of any other covenants, conditions, restrictions, reservations, or clause or phrase thereof.

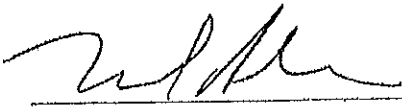
- 17.7 Entire Agreement. This Declaration, together with any documents incorporated herein by reference and all Exhibits, constitutes the sole and entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements with respect to the subject matter hereof.
- 17.8 Governing Law; Jurisdiction and Venue. This Declaration and all matters arising out of or relating to this Declaration shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without giving effect to any choice or conflict of law provision or rule. Any legal suit, action, or proceeding arising out of or based upon or relating to this Declaration shall be instituted in the federal courts of the United States of America or the courts of the Commonwealth of Virginia in each case located in the County of Roanoke, Virginia, and each party subject to this Declaration irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.
- 17.9 Counterparts. This Declaration may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

[The rest of this page left blank intentionally; signature page follows.]

000241

WITNESS the following signatures and seals:

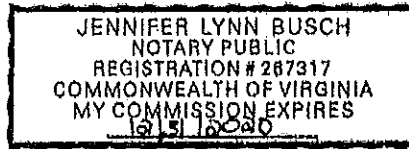
ESTATES AT OLD MILL, LLC, a Virginia
limited liability company

By:  (SEAL)
Its: manager

State of Virginia
City/County of Roanoke

Subscribed, sworn to and acknowledged before me by Michael A. (Mike) Anderson,
of ESTATES AT OLD MILL, LLC, this 5th day of
November, 2019.

[Affix Notary Seal]



000242

OLD MILL PLANTATION HOWEOWNERS
ASSOCIATION, INC., a Virginia corporation

By: [Signature] (SEAL)
Its: President

State of Virginia
City/County of Roanoke

Subscribed, sworn to and acknowledged before me by Michael A. (Mike),
Anderson of OLD MILL PLANTATION HOWEOWNERS ASSOCIATION,
INC., this 5th day of NOVember, 2019.

JENNIFER LYNN BUSCH
NOTARY PUBLIC
REGISTRATION # 287317
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES
12/31/2020