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**RESTATED DECLARATION OF PLANNED COMMUNITY  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE VILLAGE AT BRADLEY BRANCH TOWNHOMES**

This Restated Declaration Of Planned Community Covenants, Conditions And Restrictions for The Village At Bradley Branch Townhomes (herein "Declaration") made as of the 11 day of DECEMBER, 2013 by and between Bradley Branch Investments, LLC, a North Carolina limited liability company (herein "Developer") and all Future Owners of Lots or other property in The Village at Bradley Branch Townhomes as shown on those plats recorded in Plat Book 118, at Page 129, in Plat Book 122, at page 93, in Plat Book 122, at Page 155, in Plat Book 122, at Page 187, and in Plat Book 124, at Page 138 of the Buncombe County, NC Register's Office (collectively herein "Plat").

**Witnesseth:**

**That Whereas**, Developer is the owner of 5.027 acres, more or less, being The Village at Bradley Branch Townhomes as shown on the Plat, and any other adjacent property as may additionally become a part of Bradley Branch Townhomes as determined by the Developer as being subject to this Declaration (Property"); and

**Whereas**, the Developer, for the protection and benefit of all persons who may hereinafter become owners of Lots or other property located within the Community, desires that the Property be subject to limitations and restrictions, including without limitation the **REGULATION AND/OR PROHIBITION OF THE DISPLAY OF POLITICAL SIGNS** pursuant to N.C.G.S. 47F-3-121. These covenants are to run with the land and be binding upon all parties purchasing Lot or other property within the Community and all persons claiming by, through or under the Developer until December 1, 2022 at which time said covenants shall automatically be

extended for successive periods of (10) years unless by altered or extinguished by a vote of a two-thirds majority (67%) of voters in the Community; and

**Whereas**, prior document recordings for The Village at Bradley Branch Townhomes and the Property are as follows: (1) The Village at Bradley Branch Townhomes Declaration of Planned Community, recorded in **Record Book 4588, at Page 364** of the Buncombe County, NC Register’s Office (herein “Registry”), dedicated and made pursuant to the provisions of the North Carolina Panned Community Act set forth in Chapter 47F of the General Statutes of North Carolina; (2) First Amendment to The Village at Bradley Branch Townhomes Declaration of Planned Community, recorded in **Record Book 4734, at Page 1709** of the Registry; (3) Supplement and Second Amendment to Declaration Of Planned Community for The Village at Bradley Branch Townhomes, recorded in **Record Book 5033, at Page 1542** of the Registry; and (4) Assignment of Declarant’s Rights for The Village at Bradley Branch Townhomes, recorded in **Record Book 5102, at Page 1866** of the Registry (collectively herein “Prior Documents”); and

**Whereas**, the Property is a community composed townhomes, all of which share common elements, community roads and any other community facilities or amenities as may be added in the sole discretion of the Developer (with the Property and the aforementioned amenities collectively referred to herein as the “Community”); and

**Now, Therefore**, the Developer does hereby make the following declarations as to the limitations, covenants, conditions and restrictions to which the Community shall be and are hereby subjected.

**ARTICLE I**  
**Definitions**

- 1.1 “Act” shall mean and refer to the North Carolina Planned Community Act as set forth and contained in Chapter 47F of the North Carolina General Statutes.
- 1.2 “Community Association” shall mean and refer to The Village at Bradley Branch Homeowner’s Association, Inc., a nonprofit corporation, organized under the laws of the State of North Carolina, its successors and assigns.
- 1.3 “Board” shall mean and refer to the Board of Directors of the Community Association.
- 1.4. “Bylaws” shall mean and refer to Bylaws of the Community Association as determined (or thereafter amended) by the Board.

- 1.5 "Common Elements" shall mean and refer to: (i) private roads designated on any plat of the Community or any portion of such Community thereafter recorded by Developer, as well as any other private road constructed by the Developer serving the Community or any property adjoining the Community; (ii) the entrance area as shown on such Plat(s); (iii) any recreational or other facilities for use by the residents of the Property, as such facilities may be determined and added in the sole discretion of the Developer, as shown the Plat and any supplemental or subsequent plat filings of any portion of the Property; (iv) any other property designated as such by the Developer; and (v) any real estate owned by the Community Association.
  
- 1.6 "Community" shall mean and refer to the Community composed of townhomes sharing the Common Elements (including Community roads) located on the Plat and as shown on any subsequently filed Plat of such real property described as hereafter recorded by Developer. The Developer shall not be deemed to subject any other property which the Developer may now or hereafter own or acquire to the restrictions set forth herein until such time as a recorded instrument specifically subjecting such property is recorded in the Buncombe County Registry of Deeds. Developer specifically reserves the right to subject any other adjacent property or properties (which the Developer may now own or which Developer may hereafter acquire) to the restrictions set forth herein. Each townhome within the Community may be governed in more detail by rules promulgated by the Board.
  
- 1.7 "Declaration" shall mean this Restated Declaration Of Planned Community Covenants, Conditions And Restrictions for The Village At Bradley Branch Townhomes as supported by the Prior Documents and intended to stand as a restatement of all such covenants, conditions and restrictions applicable to the Community under the Prior Documents, as the same may be released, amended or changed, either in whole or in part, as provided herein.
  
- 1.8 "Developer" shall mean Bradley Branch Investments, LLC, a North Carolina limited liability company, or its successors and/or assigns, including any person which succeeds to the Special Developer Rights set forth herein and in the Act. Any consent obtained from the Developer pursuant to these restrictions must only be obtained from Bradley Branch Investments, LLC, or its successor(s), in its capacity as Developer.
  
- 1.9 "Directors" shall mean and refer to the members of the Board of the Community Association.
  
- 1.10 "Lot" shall mean and refer to any parcel of land within the Community which shall be conveyed to an Owner and as shown the Plat or on any plat hereinafter recorded by

Developer of any part of the Community and all other Lots which may be added pursuant to any other expansion right of Developer as described herein, and designated for separate ownership or occupancy by a Lot Owner.

- 1.11 "Owner" shall mean and refer to the Developer or other person or entity who owns title to any Lot, but does not include a person having an interest solely as security for an obligation.
- 1.12 "Member" shall mean and refer to each Owner or Owners of a Lot within the Community who shall also then be a member of the Community Association for such period of ownership. If a Lot is owned by more than one person, then such persons collectively shall be the Member and shall be entitled to vote only those voting shares allocated to such Lot. Each Lot shall have one vote with respect to the Community Association.
- 1.13 "Restrictions" shall mean and refer to this Declaration, as same may be released, amended or changed, either in whole or in part, as provided for herein.
- 1.14 "Special Developer Rights" shall mean and refer to those rights defined in Chapter 47F-1-103(28) of the Act as the same are reserved herein and in the Bylaws for the benefit of Developer.
- 1.15 "Property" shall mean and refer only to that certain real property that 5.027 acres, more or less, known as The Village at Bradley Branch Townhomes, Phase II, as shown on the plat recorded in Plat Book 118, at Page 129 of the Registry and as shown on any plat of such real property described as hereafter recorded by Developer. The Developer shall not be deemed to subject any other property which the Developer may now or hereafter own or acquire to the restrictions set forth herein until such time as a recorded instrument specifically subjecting such property is recorded in the Registry. The Developer specifically reserves the right to subject any other adjacent property or properties which the Developer may now own or which Developer may hereafter acquire to the restrictions set forth herein.

**ARTICLE II**

**Submission of Property to the Act and Creation of a Planned Community**

2.1 Submission of the Property and Creation of the Community: Pursuant and subject to the terms and provisions of the Act, Developer hereby identifies and commits the Property to operate as a planned community subdivision initially comprised of the Property. Developer hereby submits all of the Community to the Act and the terms of this Declaration.

2.2 Name: The name of the Community created hereunder is The Village at Bradley Branch Townhomes.

2.3 Reservation of Special Developer or Developer Rights: Developer hereby reserves unto itself and its successors in interest as Special Developer those Developer Rights as follow:

- (a) Those Special Developer and Developer Rights as set forth in the Act; and
- (b) The right, during the Developer's Control Period, to modify, amend, change, vary or release all or any part of these Restrictions; and
- (c) The right to redesignate a previously designated Lot as an easement or right-of way for access to adjoining property whether now or hereafter owned by such Developer; and
- (d) The right, during the Developer's Control Period, to establish supplemental rules and restrictions for the Community in order to govern the same in more detail.

**ARTICLE III**

**Common Elements Ownership and Maintenance**

3.1 Owner Easements of Enjoyment: Every Owner shall have the right of ingress to and egress from the Common Elements, together with the right of enjoyment in and to the Common Elements, which rights shall be appurtenant to and shall pass with the title to every Lot.

3.2 Delegation of Use: Any Owner may delegate their rights of enjoyment of the Common Elements to the members of their family, their tenants, contract purchasers who reside on the Lot, or the guests of the Owner who are currently visiting the Owner. An Owner who has delegated rights to the Common Elements to their tenant shall not in addition to their tenant have rights to the Common Elements.

3.3 Rules and Regulations: The Board shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Elements, including but not limited to: (a) the right to limit the number of guests using such improvements or to establish a maximum use capacity; (b) the right to suspend use of such areas for failure to comply with use rules or for failure to pay Community Association assessments; (c) the right to charge reasonable admission or other use fees to fund operational expenses; (d) the right to permit the reasonable reservation of such facilities for exclusive use; (e) the right to assist in the management and operation of such facilities; (f) the right to renovate or remove any such improvements within the Common Elements. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board, shall be recorded in its minutes. which shall be maintained at the office of the person or entity managing the Common Elements on behalf of the Community Association and available to the members for inspection during normal business hours, or at the designated office of the Community Association, if there is no property manager.

3.4 Leasing Common Element Facilities: Subject to the ordinances of Buncombe County, the Board shall have the power to lease the use of any Community recreational or other facility for functions or special events, and may charge reasonable admission or other fees for such use.

3.5 Operating Common Element Facilities: The Board shall have the power to limit the number of guests, to regulate hours of operation and behavior, and to curtail any use or uses it deems necessary for either the protection of the facilities or the peace and tranquility of adjoining Owners with regard to the recreational and other Community facilities located on the Common Elements. The Board shall promulgate rules regarding use of the recreational and other Community facilities, including without limitation rules regulating unsupervised use of such facilities by children. All expenses relating to the maintenance and insurance of improvements to the Common Elements shall be paid by the Community Association from dues assessments. In no event shall any Owner be exempt from, or entitled to abatement of any assessments by reason of non-use of such improvements of facilities within the Common Elements.

3.6 Developer's Conveyance of Title to Common Elements: At such time as it deems appropriate but not later than at such time that all of the Lots within the Community are sold and title conveyed, Developer shall convey fee simple title to the Common Elements to the Community Association. At the time of conveyance the Common Elements shall be conveyed in its "as is" condition, and the Community Association shall accept the same in its then condition and the Developer shall have no obligation to conduct repairs or maintenance to the Common Elements. The Community Association shall accept the conveyance of all such Common Elements pursuant to this section.

3.7 Mortgaging the Common Elements: The Community Association shall have the power to borrow money for the purpose of improving the Common Elements, and pursuant thereto, to pledge the Common Elements or any portion thereof that it owns to a Deed of Trust; provided, however, that the execution of such Deed of Trust shall require the same approval of the membership which is required for special assessments for capital improvements.

3.8 Developer Use of Community Facilities: Developer has the right to the use of any Community recreational or other facility during the Developer Control Period for public, private and exclusive functions in the exclusive discretion of the Developer.

3.9 Storm Water Drainage System: Developer shall determine what additions or alterations shall be made to any portion or component of storm water drainage facilities on the Property and any such additions or alterations shall be in accordance government approvals or requirements. The Developer shall, prior to conveyance of the Common Elements to the Community Association, enter into a "Maintenance Agreement" with the Community Association and with

the City, County and/or other applicable regulatory authority, which shall obligate the Community Association to maintain said storm water drainage facilities as mandated by applicable government ordinance(s). The Community Association shall be obligated to accept (a) its joinder into the Maintenance Agreement and (b) all conveyances from the Developer of operational and compliant storm drainage facilities governed by the Maintenance Agreement. The storm water drainage facilities on the Property and the Maintenance Agreement shall include easements as may be reasonably necessary to carry out all maintenance, repair and replacement as required by government ordinances. Upon Developer’s conveyance of the storm water drainage system the Community Association and all Owners shall be jointly and severally liable for the maintenance, repair and replacement of the system in compliance applicable ordinances. The Community Association shall assess the Owners for all costs and expenses related to the storm water drainage system.

**ARTICLE IV**  
**Land Use**

4.1 Restrictions: All Lots and the Common Elements shall be subject to the restrictions set forth herein, in addition to any other rules, restrictions or declarations which may govern in more detail.

4.2 Residential Use: All Lots shall be used for, improved for, and devoted exclusively to single-family residential use only and common recreational purposes auxiliary thereto and for no other purpose. Only one family may occupy a Lot as a principal residence at any one time.

4.3 Construction or Alteration: No alteration or construction of the external area of any improvements on any Lots or in or upon any portion of the Common Elements shall be undertaken or allowed except at the direction of and with the express written consent of the Board.

4.4 Offensive or Annoying Activity or Nuisance: No immoral, illegal, obnoxious or offensive activity shall be carried on, in or upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance to any Owner within the Property. In the use of the Property, all applicable governmental regulations shall be observed. The Board shall have exclusive discretion to determine whether any activity, including but not limited:(a) to the behavior of dogs or other animals (b) display of signs and decorations; (c) emissions of light, noise or odors; and (d) parking, storage and maintenance of vehicles, shall be considered as obnoxious or offensive hereunder.

4.5 Fences, Mailboxes and Antennas, Etc.: The Board may regulate or prohibit the erection of antennas, ham radio towers, fences (chainlink, stockade-type or otherwise) on any Lot. In no

event shall any chain link fencing be installed upon any Lot. Only mailboxes furnished or approved by the Developer or the Board may be used. No satellite dishes larger than one meter in diameter shall be allowed, and if reasonably feasible shall be installed on rear facing eaves or such other location such that it shall not be visible from Community roadways. No outside clothes lines are permitted.

4.6 Animals: No animals generally considered livestock may be kept on any Lot. No commercial animal raising or boarding of any type shall be permitted on any Lot. Only animals which are generally recognized as domestic pets, not to exceed a total of three (3) per dwelling (exclusive of fish, gerbils or other like caged pets, which are kept indoors at all times), may be kept and maintained upon a Lot. In no event shall more than two (2) dogs be kept on any Lot. All pets must be kept under the control of their Owner and kept in such a manner so as not to become a nuisance or any annoyance to other Owners or residents within the Community. Any pet outside the boundaries of the Lot shall be restrained by its owner and on a leash not to exceed seven (7) feet in length. Specific regulations may be promulgated from time to time by the Board, which may further restrict the type of pets to be allowed within the Community, including breeds and sizes of pets to be prohibited so as to avoid nuisances. Owners shall be responsible for collecting and disposing of all pet excrement. Any failure of an Owner to properly dispose of pet excrement shall subject such Owners to a reasonable fine as determined and assessed by the Community Association Board.

4.7 Parking: The design of the Lots currently provides for driveway parking for two cars. No parking of unlicensed, uninspected or inoperable vehicles shall be allowed on a Lot or on the Property. No overnight parking of any motor vehicles shall be allowed on streets within the Property. All vehicles shall be parked on the Owner's Lot driveway or within parking areas designated within the Community. In no event shall any vehicle be parked on any Community streets. Campers and boats may be parked in driveways within twenty-four hours before and after such time they are used. Lot residents may wash motor vehicles in their driveway. In addition, no one shall store or keep a trail bike, go cart, motorized tri-wheel bike, tractor, truck or other such motorized riding vehicle on the Property, except one pick-up truck and one or more operational automobiles and except as provided in the rules and regulations enacted by the Board. In no event shall any vehicle remain parked in designated parking areas adjacent to any Community recreational or other facility for any period in excess of six hours, nor shall any Community recreational or other facility designated parking area remain occupied during any time when such facilities are closed.

4.8 Motor Vehicles: All motor vehicles shall be maintained in proper operating condition and in a condition so as not to be a nuisance by noise, exhaust emissions or otherwise. Any motorcycle operated within the Community shall not be driven in a manner causing excessive



noise. The Board shall have exclusive discretion to determine whether any vehicle shall constitute a nuisance hereunder.

4.9 Trash Receptacles: Storage, collection and disposal of trash shall be in compliance with rules set by the Board. The Board may, in its exclusive discretion designate a specific day for trash collection, and any contracts for independent collection of trash shall specify said day for collection(s). The Board may contract for collection of trash and include the expense thereof in Assessments levied thereby.

4.10 Signs: No sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted, or affixed by any Owner on any portion of the exterior or interior (if visible from the outside) of any Lot or on any portion of the Common Elements. As an exception hereto: (i) signs for Owner's names may be permitted but must be applied for and approved by the Board; and (ii) signs offering a Lot for sale or rent or identifying contractor and/or lender not exceeding three (3) square feet in size may be placed by the Owner within a dwelling window. Notwithstanding the foregoing, the Board may, in its exclusive discretion, erect signs within the Community for identification or for such other purposes as the Board deems necessary. This section shall not be construed in any way so as to regulate or prohibit the display of the flag of the United States or North Carolina pursuant to N.C. G. S. 47 F-3 § 1 21, however, this Section SHALL be construed to prohibit display of all political signs as permitted pursuant to N.C.G.S. 47F-3-121, by virtue of the statement written on the first page of this Amendment.

4.11 Trade or Business: No trade or business shall be carried on upon any Lot, but this restriction shall not prohibit a home occupation which does not cause any noxious or offensive activity and which does not significantly increase traffic within the Community.

4.12 Rentals: "Leasing" for purposes of this Declaration is defined as regular occupancy of a Lot by any person other than the Owner for which the Owner receives any consideration or benefit, including a fee, service, gratuity or emolument. The purposes of restrictions regarding Leasing is to: (i) protect the equity of the individual Owners within the Community; (ii) carry out the purpose for which the Planned Community was formed by preserving the character of the Community as a residential community of Owner-occupied dwellings and by preventing the Community from assuming the character of a renter-occupied community; and (iii) comply with the eligibility requirements for financing in the secondary mortgage market in so far as such criteria provide that a Planned Community shall be substantially owner-occupied.

4.12.A With limited exceptions, no more than twenty percent (20%) of the occupied Lots within the Community may be leased at any one time. All Lots may be leased only in their entirety; no fraction or portion may be leased. No transient tenants shall be permitted and all Lot leases are hereby required to be terms of

not less than seven (7) months, unless permitted in writing by the Board which permission is in the sole discretion of the Board. No Lots may be subleased.

4.12.B All leases, lessors and lessees are subject to the provisions of the Declaration and all other rules and regulations established hereunder. The Owners shall make available to their tenant copies of the Declaration and any current rules or other regulations established hereunder.

4.12.C All Owners shall register any and all changes in the status of a rental/leased Lot, including vacancies and the renewal of leases, with the Developer, and thereafter the Community Association, within fourteen (14) days of any change.

4.12.D Any lease of a Lot within the Community shall include the following provisions:

- (i) Lessor and Lessee acknowledged that the Developer and the Community Association for Bradley Branch Townhomes, Phase II (through its Board), as set forth in the Declaration for the said development, shall be third party beneficiaries of the promises made within the lease agreement for the Lot between Lessor and Lessee; and
- (ii) Lessee agrees to comply with all of the terms and conditions of the Declaration for the Bradley Branch Townhomes, Phase II, as amended, including without limitation, all of the terms as to occupancy and use of the Lot and areas within the Community, and Lessee hereby consents that the Developer or the Community Association for Bradley Branch Townhomes, Phase II (through its Board), may seek recovery in law or in equity against Lessee for non-compliance or damages to any portion of the Community by Lessee and/or guests and invitees of the Lessor.

4.12.E Before a Lot can be leased within the Community Owners shall notify the Board, or their designated representative, in writing (i) requesting approval and (ii) of the form of the lease (including the names of the tenants and requirements as to dwelling insurance) to be used by the Owner so that such lease document can be assessed as to its compliance with 4.12.D above. The Community Association shall determine the number of Lots leased at that time and shall not approve any request causing the maximum limit to be exceeded. The Community Association shall give the Owner notice of its approval or rejection within ten (10) business days of receiving the request. If the Community Association, or their designated representative, has approved an Owner's request the Owner may start the process of leasing its Lot. If the Owner request is rejected due to excessive number of Lot rentals the Owner can request that the

Community Association place the Owner's Lot rental request on the lease waiting list developed on a "first come, first serve" basis determined by the date of the postmark on Owner's mailed request to the Community Association Board or its designated representative.

**ARTICLE V  
Membership and Voting Rights**

5.1 Every owner of a Lot shall be a member of the Community Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

5.2 Except as set forth in Item 5.3 below, all Lot owners, as members, shall be entitled to one (1) vote for each Lot. When more than one person holds an interest in any Lot all such persons shall be members and the vote for such Lot shall be exercised as such owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. If multiple owners owning any Lot are unable to agree on their vote, their vote shall not be counted.

5.3 The Developer shall be entitled to three (3) votes for each Lot the Developer owns within the Community. These special voting rights of the Developer shall cease at the end of the Developer Control Period.

**ARTICLE VI  
Assessments**

6.1 Creation of the Lien and Personal Obligation of Assessments: The Developer, for each Lot owned, hereby covenants, and every other Owner of any Lot subject to this Declaration, by acceptance of a deed therefor, whether or not expressed in any such deed of other covenant, is deemed to covenant and agrees to pay the Community Association for assessments as follow:

- 6.1.A Annual assessments or charges, as determined by the Board; and
- 6.1.B Special assessments or charges for capital improvements and unanticipated crisis or contingencies, with such assessments to be fixed, established, and collected from time to time as provided herein

The annual and special assessments on a Lot, together with interest thereon and costs of collection therefor, as provided herein, shall be a charge on each Lot and shall be a continuing lien upon the Lot upon which each such assessment is made. Each such assessment, together with interest and costs, and reasonable attorney's fees (as provided in the Act) incurred by the Community Association in collecting delinquent assessments

shall also be the personal obligations of the person(s) or entity who is the Owner of such Lot at the time when the assessment becomes or became due. The personal obligation of a Lot owner for delinquent assessments shall not pass such owner's successor or assigns in title unless expressly assumed by them, notwithstanding that the lien for delinquent assessments shall continue to encumber the Lot. In addition, the Community Association shall have all those powers provided for in the Act, including the ability to impose fines. Assessments as to subsequent purchasers shall begin as a liability to such purchasers effective upon the first day of the month following such purchasers closing on a Lot.

6.2 Developer Exclusion: Developer shall not be required to pay assessments for any Lot owned by Developer.

6.3 Purpose of Assessments: The Assessments levied by the Community Association may be used for the following purposes:

- 6.3.A for the promotion of the recreation and welfare of the residents of the Community;
- 6.3.B for the payment of ad valorem taxes and public assessments levied on the Common Elements;
- 6.3.C for the maintenance and operation of any utility systems owned or utilized by the Community Association;
- 6.3.D for the maintenance of Community streets, roads, walkways, creek banks, bridges, wetland areas, fences, and retaining walls within the Property, as well as all signs and Community lighting located on the Property or adjacent thereto;
- 6.3.E for the maintenance of the Common Elements and the cost of labor, materials and equipment necessary for the proper use, enjoyment and maintenance of the Common Elements (including without limitation, any furnishings at or within a Community Element facility);
- 6.3.F for snow removal for all streets within the Property (removal of snow from driveway and sidewalks shall be the responsibility of each individual Lot owner);
- 6.3.G for maintenance of the entrance area; provided, that it is understood that in the event that a gate is installed, said gate is not to be construed as any representation or guaranty of security to residents of the Property;

- 6.3.H for the procurement and maintenance of liability and hazard insurance in accordance with the By-Laws and the regulations of the Federal National Mortgage Association, with such liability insurance to insure the Community Association in a minimum amount of \$1,000,000.00 per occurrence, or any other appropriate insurance that the Community Association requires;
- 6.3.I for garbage removal, however, in the event that the Board shall determine not to include the provision of garbage services within the Community, then each Owner shall contract for their own garbage removal to be collected on a day as determined by the Board;
- 6.3.J for the employment of professionals such as accountants, attorneys and management firms to represent the Community Association when necessary;
- 6.3.K for maintenance of recreational of other facilities within the Community and all Common Elements;
- 6.3.L for all expenses relating to wood destroying insect treatments and certificates;
- 6.3.M for storm water drainage system maintenance, repairs, updates or alterations; and
- 6.3.N to maintain a reasonable reserve for the foregoing purposes;

6.4. Limitation on Use of Assessments: The Assessments may not be used by the Community Association or the Board to retain legal counsel or to instigate any legal action, where the total expense of such action shall exceed five thousand and no/100 dollars (\$5,000.00) without the written consent of at least sixty seven percent (67%) of the Members. Such consent shall not be required to institute an action to collect any Assessments levied pursuant to the Prior Documents or this Restated Declaration or to foreclose a lien to collect such Assessments.

6.5 Annual Assessments: Annual Assessments shall be fixed by the Board at least thirty (30) days in advance of each annual Assessment. The Board shall fix the amount of the annual Assessment against each Lot and send written notice of such assessment to each Lot owner. The due dates of such Assessments shall be established by the Board and such Assessments shall be payable on the due date, but may be collected in monthly, quarterly, or annual Assessments, as established by the Board. A delinquent account may be accelerated by the Community Association such that the entire year's Assessment becomes immediately due. Assessments as to any Lot purchased from the Developer shall be prorated for any partial month or other partial Assessment term at closing. The Community Association shall, upon demand, and for a

reasonable charge, furnish a certificate signed by an officer of the Community Association stating forth whether the Assessment for a specified Lot is paid current.

6.6 Special Assessments for Capital Improvements: In addition to the annual Assessments authorized herein, the Community Association may levy, in any Assessment year, a special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such Assessment shall have the assent of two thirds (2/3) of the vote of members who are voting in person or by proxy at a meeting duly called for this purpose. Written notice of any meeting called for the purpose of taking any action authorized under this section shall be sent to all members not less than thirty (30) days and no more than sixty (60) days in advance of the meeting.

6.7 Assessments for Reserves. In addition to the annual Assessments and special Assessments, the Community Association shall, upon closing of each transfer of a Lot from the Developer collect an initial reserve account containing minimum sum equal to two (2) months of regular Assessment, which shall be held in a reserve account at the discretion of the Community Association. This initial reserve deposit shall be supplemented thereafter as a budget item included in the annual Assessments.

6.8 Uniform Rate of Assessments: Both annual and special Assessments must be fixed at a uniform rate for all Lots as imposed by the Community Association.

6.9 Remedies for Non Payment of Assessments: Any Assessments which are not paid when due shall be delinquent. If the Assessment is not paid within sixty (60) days of the due date, the Assessment shall bear interest from the date of delinquency at the rate of 18%, or the maximum rate permitted by Law. Additionally, a late fee equal to the greater of twenty and no/100ths Dollars (\$20.00) per month or ten per cent (10%) of the amount of such Assessment shall be charged for any Assessment installment which remains due and owing and which remains unpaid for any period of thirty (30) days or longer. The Board may, at its sole discretion, waive the imposition of interest or a late fee to any delinquent Assessment. The Board may bring an action in law against the Owner personally obligated to pay the Assessment and interest or foreclose the lien created therein in the same manner as described by the laws of the State of North Carolina for foreclosure of deeds of trust. Cost and reasonable attorney fees as provided for above for any such action shall be added to the amount of such Assessment. No Owner may waive or otherwise escape liability for the Assessment provided for herein by non-use of the Common Elements, or abandonment of their Lot. In the event that an action at law results in a judgment being entered against the Owner of any Lot and in favor of the Community Association, the Community Association shall be further empowered to obtain execution on such judgment in a manner to the

extent provided for and permitted by the laws of the State of North Carolina. The Community Association may delegate collection of delinquent Assessments to a duly-appointed property manager.

6.10 Assessments of Fines for Non-Compliance: In the event that any Owner shall fail to comply with the terms of the Declaration and any other rules or restrictions hereunder, the Community Association may notice such noncomplying Owner(s) of a hearing before an adjudicatory panel appointed by the Board, in accordance with N.C.G.S. 47F-3-107.1 , and shall be shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred dollars (\$100.00) may be imposed for the violation and without further hearing, for each day after the decision that the violation occurs. Such fines shall be assessments secured by liens under N.C.G.S. 47F-3-116.

6.10 Annual Budgets: By majority vote of the Directors, the Board shall adopt an annual budget for the each year of operation which shalt provide for the allocation of expenses in such a manner that the obligations imposed by this Declaration and any and all amendments hereto shall be met.

6.11 Omissions of Assessments: An omission by the Board before the expiration of any year to fix the Assessments for that or for the next year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligations to pay any Assessments.

6.12 Subordination of Assessment Liens to Mortgages: The lien for Assessments provided herein shall be subordinate to any mortgage or deed of trust which is a first lien on a Lot. Sale or transfer of any Lot shall not affect the viability and application of an Assessment lien. However, the sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof shalt extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer, but shall not, however, extinguish the payment of prior Assessment amounts to the Community Association from any excess foreclosure funds above the foreclosing lender's lien. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien therefor. Nothing herein shall prevent, and any mortgagee may, at its option, pay any delinquent obligations of an Owner. The Developer or the Community Association shall notify, by certified mail return receipt requested, any mortgagees of any delinquency or any default in the presence of any obligations of an Owner prior to taking any action against such Owner which would affect the mortgage.

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**ARTICLE VII**  
**Insurance**

In addition to insurance coverage as pertains to the Common Elements, all Owners of Lots are required to have fire and extended coverage insurance in an amount sufficient to cover the full replacement cost of their Lot improvements. All Owners shall have an affirmative obligation to provide the Developer or the Community Association with a copy of the declaration page of their current fire and extended coverage insurance policy. In the event of damage to or destruction on any Lot covered by a standard fire and extended coverage insurance policy, the Owner of such Lot shall have the affirmative responsibility of reconstructing or repairing the damage regardless of whether such Owner has such a standard fire and extended coverage insurance policy. In the event of the Owner's failure to repair or reconstruct such Lot the Community Association may, at its discretion, clean up the debris or repair the damage and add the costs thereof to the Assessment against the Lot upon which said debris is located, and collect such Assessments pursuant to the provisions of Article VI.

**ARTICLE VIII**  
**Easements**

8.1 Easements Established: All Lots and the Common Elements within the Community shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas, telephone, cable television and electric power lines and ingress and egress and for other purposes as shall be established by the Community Association.

8.2 Road Rights-of-Way: All Lots within the Community are serviced by certain road rights-of-way described on plats to be recorded. Developer does hereby establish said rights of way as shown as private roadways, and makes no representation with respect to whether they have been constructed in accordance with current Department of Transportation specifications. As such, said roadway may not be eligible for dedication as a public road by the North Carolina Department of Transportation for inclusion in the State highway system. All future Owners, and their heirs, successors and assigns, covenant and agree that they shall be jointly responsible for the maintenance, upkeep, repair and service of such road rights of way unless and until such time as the Department of Transportation assumes the obligation for the maintenance of said road rights of way.

8.3 Encroachments and Developer's Easements to Correct Drainage: All Lots and the Common Elements shall be subject to easements for the encroachment of improvements constructed on adjacent Lots by the Developer or its predecessors to the extent that such initial improvements actually encroach, including, without limitation, such items as overhanging eaves, gutters, downspouts, exterior storage rooms, steps and walls. If an encroachment is created as a



result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be and remain a valid easement for such encroachment for the maintenance of the same. For a period of twenty (20) years from the date hereof, the Developer reserves a blanket easement on, over and under the ground within the Community to maintain and to correct drainage or surface water in order to maintain reasonable standards of health, safety, and appearance, expressly including the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary within the discretion of the Developer. After such action is complete, the Developer shall restore the affected property to its original condition to the extent practicable. Developer shall give reasonable notice of intent to take such action to all affected Owners. These rights and reservations are assignable by the Developer. Nothing in this section shall be deemed to impose an obligation upon Developer to maintain and correct drainage and surface water conditions.

8.4 Easements to Buncombe County and Public or Private Utilities: A perpetual easement is hereby established for county, state or public or private utilities serving the area, their agents and employees over all Common Elements hereby or hereafter established for postal and private mail delivery, garbage collection, setting, removing and reading utility meters, maintaining and replacing utility or drainage connections, or cable service, and acting with other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection.

8.5 Easement for Construction Purposes: Developer shall have full rights of ingress and egress to and through, over and about the Common Elements in the Property during such period of time as Developer is engaged in any construction or improvement work on or within the Community. Developer shall further have an easement for the purpose of the storage of materials, vehicles, tools, equipment, etc. which are being utilized. No owner, his guests or invitees shall in any way interfere or hamper Developer, its employees, successors or assigns, in connection with such construction, it being understood and agreed that the construction activities of Developer or its contractors or subcontractors, so far as practical, shall not interfere with the quiet enjoyment of Lots within the Community.

8.6 Utility Contracts: The Developer reserves the right to subject the Property to contracts with individual utility companies for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to such utility companies by the Community Association.

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**ARTICLE IX  
Party Walls**

In addition to other terms and provisions hereof specific to the Lots provided for herein, the following additional terms shall apply:

9.1 Each wall or component of a residential dwelling upon a Lot which is built as a part of the original construction of the Lots and placed on the dividing line(s) between the Lots shall constitute a "party wall structure", and to the extent not inconsistent with the provisions of this Declaration, the general rules of law in North Carolina regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

9.2 Any portion of the party wall structure which is damaged or destroyed must be repaired, reconstructed, or replaced promptly by the adjoining Owners unless repair or reconstruction would be illegal under any law, statute or ordinance governing health and safety. The cost of reasonable repair and maintenance of the party wall structures shall be shared equally by the Owners of Lots adjoining or sharing such party wall structure(s).

9.3 If a party wall structure is destroyed or damaged by fire or other casualty, any Owner who has used the party wall structure may restore it, and if the other Owners thereafter make use of the party wall structure, such Owners shall contribute equally to the cost of restoration thereof, without prejudice, however, to the right of any such Owners to call for a larger contribution from the other under any rule of law regarding the liability for negligence or willful acts or omissions. If any Owner neglects or refuses to pay his, her or its share of the expenses, or all of the cost in the case of negligence, arising from the repair or reconstruction of the party wall structure as described herein, the other adjoining Owner(s) may, but will not be required to, undertake such repair or reconstruction and pay the share of the cost and expense of the adjoining Owner neglecting or refusing to so pay, which amount thereof shall constitute an Assessment collectible in accordance with this Declaration and shall be subject to a lien herein provided and pursuant to the Act. The right of any said Owner to contribution from any other such Owner(s) under this Article shall be appurtenant to said Owner's Lot and shall pass to successors in title.

9.4 Notwithstanding any other provision of this Article, any Owner who by his, her or its negligent or willful act causes the party wall structure to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

9.5 The Owner of any Lot may not construct, reconstruct, extend, or modify any party wall structure in any manner without the prior approval of the Board and of any other Owner(s) adjoining the said party wall structure, which such approval shall not to be unreasonably withheld.

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

9.7. If any Owner desires to sell his, her or its Lot and in order to assure a prospective purchaser that no adjoining Owner has a right of contribution as provided in this Article, such Owner may request of the adjoining Owner a certification that no right of contribution exists, whereupon it shall be the duty of such adjoining Owner to make such certification immediately upon request and without charge. Where the adjoining property Owner does claim a right of contribution, the certification shall contain a recital for the amount claimed and the basis on which the claim is made.

9.8. There shall exist for the benefit of each Owner of a Lot, and their respective guests, invitees, successors and assigns, a perpetual easement for access, ingress, and egress on, over and across such portions of the other adjoining Lots reasonably necessary or desirable for the construction, repair, maintenance and replacement of the party wall structure. With respect to the whole or any portion of any party wall structure located upon an adjoining Lot, an adjoining Owner shall have an encroachment easement as described in Paragraph 9 below upon the other adjoining Lot. This construction, repair, maintenance and replacement easement shall include the right to temporarily alter, obstruct and/or block off portions of the party wall structure during construction or repair in order to avoid injury to persons or damage to the Lot(s) or other property. However, in every case of alteration, obstruction, or blocking, the Owner exercising such right shall provide, if possible, reasonable alternative means of use and access around the affected area to allow access to and the continued use and enjoyment of the affected Lots by the persons entitled to such use and enjoyment. All such construction, repair, maintenance and replacement shall be undertaken and completed in accordance with applicable governmental regulations and permits therefor.

9.9. There shall exist for the benefit of each adjoining owner of the Lots an exclusive and perpetual easement on and across such portions of the party wall structure reasonably necessary or desirable, to perform any maintenance, repair, reconstruction or replacement of the party wall structure. There shall also exist for the benefit of each adjoining Lot an encroachment easement to physically attach to the party wall structure any portion of its improvements attached in the original construction or required for support. Such encroachment easements shall include the right, but not the obligation, to install, use, replace and maintain utility lines and facilities under and beneath such properties, including without limitation, pipes and lines for water, electricity, telephone and cable television, all subject to the reasonable right of the respective adjoining Lot(s) to designate the actual location of any such utility easements encumbering the respective Lot.

9.10. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute may be settled by the Board of the Community Association with the

consent of Lot Owners, otherwise by arbitration as provided by the then existing laws of North Carolina relating to arbitration.

**ARTICLE X**  
**Obligations of Mortgagees**

The following provisions are established for the benefit of the holders of mortgages (the definition of mortgages to include Deeds of Trust or other security instruments) encumbering any Lot located within the Community:

10.1 Developer or Community Association shall be obligated to notify the holder of any first mortgage or deed of trust on a Lot, upon request of such holder, of any default by the Owner and the performance of any of such Owner's obligations described herein, including failure to pay assessments when due, which is not cured within sixty days from the date of such default;

10.2 First mortgagees on a Lot may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any of the Common Elements and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Elements;

10.3 No provision herein shall be construed to give an Owner or any other party priority over any rights of first mortgagees of Lots pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of, any portion of the Common Elements within the Community.

**ARTICLE XI**  
**Bradley Branch Townhome Community Property Owners' Association**

The purpose of the Community Association shall be to provide for the orderly enforcement of these covenants, including, but not limited to, the maintenance, upkeep and repair of the joint rights of way within the Community and any Common Elements or any other matter or area determined by the Community Association to be a part of the Common Elements or other area of common interest.

The Board as established in the Bylaws of the Community Association shall constitute the Executive Board as defined in N.C.G.S. 47F-3-103 and shall be subject to the provisions of such statute except as set forth in this Declaration or the terms of the Bylaws of the Community Association.

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**ARTICLE XII**  
**General Matters**

12.1 Adjoining Properties and Governmental Actions: All purchasers of Lots do hereby acknowledge that Developer has made no representations as to uses of adjoining properties and such purchasers are been advised to investigate on their own accord any particular uses of adjoining properties and acknowledge that they have assumed such responsibility. By acceptance of a deed conveying title to any Lot within the Community, such Purchasers do hereby understand and agree that Developer is not responsible for any activities or actions conducted on any property adjoining the Community, or in any way relating to or arising out of any use of any property adjoining the Community. The purchaser of any Lot acknowledges that they have investigated on their own accord how such uses may affect the Community and are satisfied that they do not materially or substantially affect the value, use or enjoyment of any Lot

12.2 Enforcement: Enforcement of these covenants and restrictions shall be by any proceeding at law or equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain or enjoin violations, or to recover damages, or in addition to the lien enforcement rights set out in Article 2 of Chapter 44A of the North Carolina General Statutes, by any appropriate proceeding at law or equity against the land to enforce any lien created by these covenants. Action for enforcement may be brought by the Community Association or any Lot Owner. In addition, the Community Association may impose reasonable fines pursuant to the Act against any Owner for violation of these Restrictions. The remedies granted and reserved herein are distinct, cumulative remedies and the exercise of any of them shall not be deemed to exclude the rights of other Owners to exercise any or all of the other remedies or those which may be permitted by law or in equity. The failure to enforce any rights, restrictions or conditions contained herein, however long continued, shall not be deemed a waiver of this right to do so hereafter as to the same breach, or as to a breach occurring prior to or subsequent thereto and shall not bear on or affect its enforcement. Any person entitled to file a legal action for violation of thee covenants shall be entitled as part of any judgment in favor of the filing party to recover a reasonable attorney's fee as a part of such action.

12.3 Amendment and Modification. The Developer does hereby declare the advantages accruing to the Property from these covenants and restrictions hereinabove set forth. All covenants, restrictions and affirmative obligations set forth herein shall run with the Property and shall be binding on all parties and persons claiming under them. Except as otherwise set forth in these Restrictions, during the Control Period, the Developer hereby reserves the absolute right to reasonably modify and/or to amend the Declaration in whole or in part in Developer's sole and absolute discretion as the Developer deems proper and appropriate. After the Control Period, an amendment to the Declaration shall be made and approved in the manner whereby at an annual meeting or specially called meeting of the Members, sixty-seven percent (67%) of the Members

vote in favor of such amendment and once made, shall become effective when recorded in the Buncombe County, North Carolina, Register's Office. Whenever herein the Developer has reserved a right or the discretion to decide a matter, then the exercise of such right and the decision of such matter shall be in the sole and absolute discretion of the Developer. Nothing herein shall require or shall be construed so as to require the Developer or its related persons or entities to subject all or any part other or adjoining property to the Declaration.

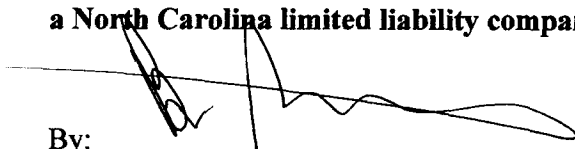
12.4 Developer Control. The "Control Period" or "Developer Control Period" shall mean that period of time from the date of the recording of this Declaration through the earlier of (1) December 31, 2022, or (2) that date upon which Developer conveys the last Lot within the Community and conveys the Common Elements to the Community Association.

12.5 Additional Property. Developer may add subsequently acquired contiguous property to the Community which will be developed in a similar manner and will be made subject to these covenants, conditions and restrictions.

IN WITNESS WHEREOF, the Developer has set its hand the day and year first above written.

"Developer"

**Bradley Branch Investments, LLC,  
a North Carolina limited liability company**

By:   
Bruce M. Alexander, Member/Manager

**State of North Carolina  
County of Buncombe**

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Bruce M. Alexander, as Member/Manager of M Realty, LLC, a North Carolina limited liability company. Witness my hand an official stamp or seal on this the 12<sup>th</sup> day of December, 2013.

My Commission expires: May 25<sup>th</sup>, 2015

OLGA NAGY  
Typed/Printed name of Notary:

