



**2024000400**

TRANSYLVANIA CO, NC FEE \$26.00  
PRESENTED & RECORDED:

01-29-2024 03:46:21 PM

BETH C LANDRETH  
REGISTER OF DEEDS  
BY: ANTJE OWEN  
DEPUTY REGISTER OF DEEDS

**BK: DOC 1103**

**PG: 845-847**

STATE OF NORTH CAROLINA

COUNTY OF TRANSYLVANIA

**AMENDMENT TO AMENDED AND RESTATED**  
**MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR BEDFORD PLACE**

A Mixed Property Planned Community Development

Comprised of

Twenty-Seven (27) Villas, Fifteen (15) Townhomes, and a Four (4) Unit Condominium

Mail after Recording To:  
The Neumann Law Firm, PLLC  
9 Park Place West, Suite 102, Brevard, NC 28712

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**THIS AMENDMENT** is made and entered into as of this 26 day of January, 2024  
by the **Bedford Place Homeowners' Association, Inc.** (the "HOA").

**BACKGROUND STATEMENT**

The HOA has heretofore duly adopted an Amended and Restated Master Declaration of Covenants, Conditions and Restrictions for Bedford Place (March 11, 2015) (hereinafter referred to as the "RMD"), and has caused such RMD to be recorded in Deed Book 719, Page 1, Transylvania County Registry.

Pursuant to Article X Section 3 (10.03) of the RMD, an amendment to said RMD has been duly adopted. The purpose of this document is to set forth said Amendment to the RMD, which Amendment is

set forth in Exhibit A attached hereto and made a part hereof, so as to provide adequate notice to all owners and future and prospective purchasers of properties in Bedford Place, of the provisions of said RMD, as amended.

WITNESSETH:

**NOW, THEREFORE**, pursuant to the provisions of said RMD as set forth above, RMD is hereby further amended as follows:

1. An addition to the "Definitions" section of the RMD shall be as follows:
  - a. "Motor vehicle" means vehicles, including, without limitation, mobile homes, motor homes, truck campers, trailers of any kind, motorcycles and boats.
2. Section 5.04 Townhome Maintenance Responsibility, (a) Party Walls, Roofs, and Foundations, shall now be:
  - a. Each wall, roof, foundation and foundation wall which is built as a part of the original construction of the Townhomes and placed on or traverse to the dividing line between them, and all reconstruction or extensions of such structures shall constitute a party wall, roof, foundation and foundation wall, and to the extent no inconsistent with the provisions of this Section, the general rules of law regarding party walls and lateral support in below-ground construction and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Roof replacement shall be completed on the entire unit at the same time with the cost shared by all three owners, with the cost based on the square footage of each unit. Roof choice and color must be approved and in compliance with keeping community uniformity.
3. Section 6.03 Special Assessments and Special Allocations of Assessments: (h) Special Allocation of Assessment for Villa Expenses: Notwithstanding anything herein to the contrary, any and all Common Expenses of any kind whatsoever provided to or incurred for the exclusive benefit of one or more Villas, including without limitation for the maintenance, repair, operation, or insurance thereof, shall be specifically allocated to and assessed exclusively against those particular Villa Owners receiving the benefits thereof in proportion with their Allocated Interest in the Common Expenses. It is the express intent of this provision to prevent any Unit or Townhome Owner from being assessed for any portion of such expenses incurred for the sole benefit of on or more Villas, and further to prevent the Villa Owners within any particular building not otherwise benefited by an such expenses from being assessed for any portion thereof.
4. Section 8.02 Other Insurance Obligations and Authority: The HOA shall obtain and maintain at all times in addition to the foregoing and to the extent not inconsistent therewith: (b) Fidelity coverage against dishonest acts on the part of its directors, officers, employees, agents and volunteers responsible for handling funds belonging to, or administered by, the HOA in an amount at least equal to sum of one fourth (1/4) of the previous fiscal year's annual assessments plus reserves collected for the entire Planned Community, or in such greater amount as the Board may determine; or according to State standards; and

IN WITNESS WHEREOF, the undersigned, on behalf of the HOA, has executed this Amendment as of the day and year first written above.

BEDFORD PLACE HOMEOWNERS' ASSOCIATION, INC.

By: [Signature]  
Print Name: ROBERT DECKER  
Title: President

STATE OF NORTH CAROLINA  
COUNTY OF TRANSYLVANIA

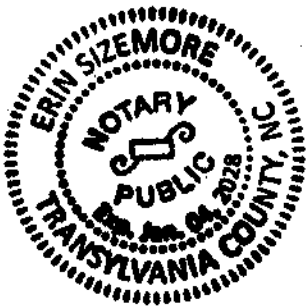
I, a Notary Public of the aforesaid State and County, certify that Robert E. Decker appeared before me and being personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signatures(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official stamp or seal, this 26 day of January, 2024

[Signature]  
NOTARY PUBLIC

My Commission Expires:

1-4-28  
[NOTARY SEAL]





**2015004024**

TRANSYLVANIA CO, NC FEE \$26.00  
PRESENTED & RECORDED

08-14-2015 10:19:14 AM

CINDY M OWNBEY

REGISTER OF DEEDS  
BY: D REE M POWELL  
DEPUTY REGISTER OF DEEDS

**BK: DOC 736**

**PG: 162-165**

STATE OF NORTH CAROLINA

COUNTY OF TRANSYLVANIA

**AMENDMENT TO AMENDED AND RESTATED**  
**MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR BEDFORD PLACE**

A Mixed Property Planned Community Development

Comprised of

Twenty-Seven (27) Villas, Fifteen (15) Townhomes, and a Four (4) Unit Condominium

Mail after Recording To:  
The Neumann Law Firm, PLLC  
9 Park Place West, Suite 102, Brevard, NC 28712

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**THIS AMENDMENT** is made and entered into as of this 14 day of AUGUST 2015, by the **Bedford Place Homeowners' Association, Inc.** (the "HOA").

**BACKGROUND STATEMENT**

The HOA has heretofore duly adopted an Amended and Restated Master Declaration of Covenants, Conditions and Restrictions for Bedford Place (March 11, 2015) (hereinafter referred to as the "RMD"), and has caused such RMD to be recorded in Deed Book 719, Page 1, Transylvania County Registry.

Pursuant to Article X Section 3 (10.03) of the RMD, an amendment to said RMD has been duly adopted. The purpose of this document is to set forth said Amendment to the RMD, which Amendment is set forth in Exhibit A attached hereto and made a part hereof, so as to provide adequate notice to all owners and future and prospective purchasers of properties in Bedford Place, of the provisions of said RMD, as amended.

WITNESSETH:

NOW, THEREFORE, pursuant to the provisions of said RMD as set forth above, RMD is hereby further amended as follows:

1. Article VI Section 2 (6.02) of said RMD is revised as set forth on Exhibit A attached hereto and made a part hereof.

IN WITNESS WHEREOF, the undersigned, on behalf of the HOA, has executed this Amendment as of the day and year first written above.

BEDFORD PLACE HOMEOWNERS' ASSOCIATION, INC.

By: Alan C. Mercer  
Print Name: ALAN C. MERCER  
Title: President

STATE OF NORTH CAROLINA  
COUNTY OF TRANSYLVANIA

I, a Notary Public of the aforesaid State and County, certify that Alan Mercer appeared before me and being personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signatures(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official stamp or seal, this 14<sup>th</sup> day of August, 2015.

Bronda Hudson  
NOTARY PUBLIC

My Commission Expires:

06/29/2019  
[NOTARY SEAL]



EXHIBIT A**AMENDMENT TO THE  
AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR BEDFORD PLACE**

Approved by the Board of Directors and Lot Owners Pursuant to Article X Section 3 (10.03) of the RMD  
July 31<sup>st</sup>, 2015

***Section 6.02 Assessment for Common Expenses:***

The Common Expense Liability and votes in the HOA shall be allocated equally to each Condominium, Townhouse and Villa. The Common Expense Liability includes the amount of all Common Expenses not specially assessed against one or more but less than all of the Condominiums, Townhouses and Villas pursuant to the provisions of this RMD, less the amount of all undistributed and otherwise unreserved HOA funds. The general annual assessment shall be established by the Board in the manner set forth in this section. At least thirty (30) days prior to the annual meeting of the HOA, the HOA shall prepare and submit in writing to the Lot Owners an estimated budget of the Common Expenses for the next succeeding fiscal year to be paid by Assessments collected from the Lot Owners, together with the amount of the annual Assessment payable by each Lot Owner during such fiscal year. If the estimated budget proves inadequate for any reason at any time during the year, then upon the affirmative vote of Lot Owners having at least sixty seven percent (67%) of the total allocated HOA votes, the Board may levy at any time a further Assessment against the Lot Owners and notify the Lot Owners accordingly. If for any reason an annual budget is not approved by the Board, a payment in the amount required by the last prior Assessment shall be due upon each Assessment due date until changed by a new Assessment. Each Lot Owner shall be obligated to pay such Assessments to the HOA in the manner and pursuant to any payment schedule specifically established by the Board of Directors as modified from time to time. Notwithstanding G.S. 47F-3-114 (Surplus Funds) in any year in which there is an excess of Assessments and other income over expenditures, the Board, by resolution, and without the necessity of a vote of the Lot Owners, shall determine either to apply such excess or any portion thereof against and reduce the subsequent year's Assessments, or allocate the same to one or more reserve accounts of the HOA. Common Expenses of the HOA to be paid through general annual Assessments shall include, but shall not necessarily be limited to, the following:

- (a) HOA Management/Administration fees/expenses, including without limitation, legal/accounting fees.
- (b) Utility charges for utilities serving the Common Elements, and charges for other common services provided to all Lot Owners including any utilities provided to the Lots not separately metered.



- (c) The cost of any master or blanket policies of insurance purchased for the benefit of all Lot Owners and/or the HOA, as required by the NCPCA or this RMD, and such other insurance coverage as the Board determines to be in the interest of the HOA and/or the Lot Owners.
- (d) The expense of maintaining, operating and/or repairing the Common Elements.
- (e) Such other expenses as may be determined from time to time by the Board to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against each Lot.
- (f) The expense for establishing and maintaining an adequate reserve fund or funds for the periodic maintenance, repair and replacement of those Common Elements (including Limited Common Elements the responsibility for which is not otherwise specifically assessed herein) which the HOA may be obligated to maintain, and of reserves to cover operating contingencies or deficiencies arising from unpaid Assessments or liens, emergency expenditures, and other matters, as may be authorized from time to time by the Board.
- (g) Any and all other Common Expenses as are permitted by the NCPCA or state law.



**2015001014**

TRANSYLVANIA CO, NC FEE \$194.00  
PRESENTED & RECORDED

03-11-2015 02:19:47 PM

CINDY M OWNBEY  
REGISTER OF DEEDS  
BY BETH C LANDRETH  
ASSISTANT

**BK: DOC 719**

**PG: 1-57**

This Instrument Prepared By:  
The Neumann Law Firm, PLLC  
9 Park Place West, Suite 102  
Brevard, NC 28712

# **RESTATED MASTER DECLARATION**

of

**Covenants, Conditions, & Restrictions**

for

## **BEDFORD PLACE**

**A Mixed Property Planned Community Development**

**Comprised of**

**Twenty Seven (27) Villas, Fifteen (15) Townhomes, and a Four (4) Unit Condominium**

Mail after Recording To:  
The Neumann Law Firm, PLLC  
9 Park Place West, Suite 102, Brevard, NC 28712

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THIS RESTATED MASTER DECLARATION, (the "RMD" or "Declaration") for Bedford Place (the "Development") is hereby made and entered into as of the day and year first set forth hereinabove, by and between the undersigned Owners, the Bedford Place Homeowners' Association, Inc., (the "HOA"), and the Bedford Place Condominium Unit Owners' Association (the "COA"), for the purposes set forth hereinbelow.

### WITNESSETH:

WHEREAS, in 2002, Bedford Place, LLC (the "Declarant") recorded an instrument entitled "DECLARATION OF CONDOMINIUM, COVENANTS, AND RESTRICTIONS FOR BEDFORD PLACE" (the "2002 Declaration") in the Transylvania County Registry at Book 97, Page 268, thereby submitting the Development to the terms, provisions, and authority of both the North Carolina Planned Community Act (the "NCPCA") and the North Carolina Condominium Act (the "NCCA"), as they respectively apply to the Development, together with certain other covenants, conditions, and restrictions as more particularly described in that 2002 Declaration; and

WHEREAS, the 2002 Declaration purported to create two distinctly different forms of Development property consisting of: (i) numerous two story condominium buildings, and (ii) numerous separately designated lots for the construction of single family residential dwellings; and

WHEREAS, the simultaneous existence in the Development of such different forms of property thereby caused it to become a Mixed Property Planned Community Development, the Condominium portion only of which is subject to the North Carolina Condominium Act (the "NCCA") by operation of law, in addition to remaining subject to all other applicable laws affecting the entire Development to the extent not inconsistent with the NCCA, including but not limited to the NCPCA; and

WHEREAS, in 2006 the Declarant amended the 2002 Declaration by executing and recording in Book 334, Page 592, Transylvania County Registry, an instrument entitled "FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM, COVENANTS, AND RESTRICTIONS FOR BEDFORD PLACE" (the "2006 Amendment") purporting in part therein to create townhomes as a third form of property existing within the Development, and revising the scope of the Development to consist of: (i) a Condominium consisting of four units, (ii) twenty seven single family lots, and (iii) nineteen townhomes (of which only fifteen were created); and



WHEREAS, the 2002 Declaration, even as amended by the 2006 Amendment, inadequately addresses or fails to comply with certain conflicting terms and provisions of the NCPCA and the NCCA as each respectively applies to the various different forms of property existing simultaneously in the Development; and

WHEREAS, the period for Declarant Control has expired pursuant to the 2002 Declaration, as amended, or otherwise has expired by operation of law; and

WHEREAS, the undersigned desire to amend and restate the provisions of the 2002 Declaration, as amended, so that:

All of the covenants, conditions, and restrictions affecting the entire Development and the respectively different forms of property simultaneously existing therein are set forth and contained within this RMD and/or the Instruments specifically incorporated herein by reference, for ease and convenience of reference thereto, and for the mutual benefit of all of the Owners of any interest in the Development; and

The terms hereof shall more adequately address and legally comply with the provisions of both the NCPCA and the NCCA as they each respectively apply to the various different forms of property simultaneously existing within the Development; and

The terms hereof shall more fully establish and describe the nature of the relationship between, and the unique management structure for, the COA and the HOA, thereby providing for the smooth, economic, and legally compliant management and administration of the entire Development Property by the HOA as one single Planned Community pursuant to the NCPCA, while simultaneously allowing the HOA to serve in the capacity of the COA's Master Association to fulfill the COA's duties and exercise its powers to separately manage and administer the Condominium portion of the Development pursuant to the NCCA and the Restated Condominium Declaration (the "RCD") attached hereto and incorporated herein by reference as Exhibit "RMD-D".

NOW, THEREFORE, pursuant to G.S. 47F-2-117 of the NCPCA (Amendment of declaration), and Section 11.1 of the 2002 Declaration (Amendment), as amended, and for and in exchange of the mutual covenants and promises given and made herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned for themselves and for their occupants, mortgagees, heirs, executors, administrators, successors, and/or assigns, hereby make and agree to be bound by the covenants, conditions, and restrictions set forth within this RMD including any Instruments or Exhibits incorporated herein by reference, as all may be validly amended or adopted from time to time hereafter.

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## ARTICLE I DEFINITIONS

### **Section 1.01 Intent & Application of Definitions:**

Each term defined in this Article, and as used within this RMD or any other Instruments (as that term is defined hereinbelow) whether capitalized or not, shall be deemed to have the definition set forth immediately thereafter, unless a contrary definition for such term is otherwise clearly established by: (i) any applicable law including but not limited to the NCPA (or NCCA in the context of condominium property or governance), (ii) an express statement within any Instrument that such term as used therein shall have a contrary definition (including but not limited to those terms separately and specifically defined within the RCD\*), or (iii) the context in which any such term is used where the intent for such term to contain a contrary definition is clear and unambiguous.

\* For convenience purposes only, terms defined hereinbelow, the definitions of which are followed by an asterisk (\*) indicates the existence of a separate definition for such term whenever it is used within the RCD, or in the exclusive context of describing condominium property, condominium ownership, or condominium governance.

+ The terms and provisions of this RMD are intended to and shall apply to all forms of property within the Development including without limitation the Townhomes, Villas, and the Condominium. Therefore, except to the extent prohibited by, or in conflict with any law (including without limitation any provision of the NCCA), in construing the application of this RMD and/or the NCPA to each Unit and/or Unit Owner, each Unit shall be deemed and treated for purposes hereunder as a Lot, and each Unit Owner shall be deemed and treated for purposes hereunder as a Lot Owner.

### **Section 1.02 Terms Defined:**

"Acts" means either the NCPA, the NCCA, or both as the context may require.

"Allocated Interest" means the Common Expense Liability and votes in the HOA allocated to each Lot.\*

"Articles" means the HOA's Articles of Incorporation as validly amended from time to time.

"Association" means the HOA.\*

"Board" or "Board of Directors" means the executive board of the HOA.\*

"Bylaws" means the HOA's bylaws as validly amended from time to time.\*

"COA" means the Bedford Place Condominium Unit Owners' Association, a North Carolina unincorporated association formed pursuant to G.S. 47C-3-101 to separately manage and administer the Condominium's affairs in accordance with the NCCA and the RCD.

"Common Elements" means all Development Property owned or leased by the HOA in its own name on behalf of its members, less and excepting all privately owned Lots and the Condominium Property.\*

"Common Expenses" means expenditures made by, or financial liabilities of, the HOA, together with any allocations to reserves.\*

"Common Expense Liability" means the liability for Common Expenses of the Development allocated to each Lot as provided by this RMD, the NCPA, or otherwise by law.\*

"Condominium" means the Bedford Place Condominiums consisting of the Condominium Property, and existing as a separately administered but contiguous part of the larger Planned Community Development of Bedford Place, portions of which Condominium Property are designated for separate ownership (Units) the remainder being designated for common ownership solely by the owners of those portions (Unit Owners).

"Condominium Property" means all of that real property more particularly described within Exhibit "RMD-B" attached hereto and incorporated herein by reference, together with the Units constructed thereon, and all rights, easements, and obligations appurtenant thereto, as more particularly described within the RCD, and being the same real property described within Exhibit "RCD-A" attached thereto and incorporated therein by reference.

"Condominium Unit" or "Unit" means a physical portion of the Condominium Property designated by its Unit Boundaries for the separate ownership or occupancy thereof by a Unit Owner.

"Condominium Unit Boundaries" or "Unit Boundaries" means the boundaries for each Unit, both as to its vertical and horizontal planes, as established and shown by the Plats and Plans, or otherwise to the extent not inconsistent therewith, means those boundaries established by operation of law pursuant to G.S. 47C-2-102 of the NCCA.

"Condominium Unit Owner" or "Unit Owner" means the Person(s) owning a Unit, but does not include a Person having an interest in a Unit solely as security for an obligation.

"Declarant" means Bedford Place, LLC, a North Carolina LLC.

"Declaration" means this RMD.\*

"Development" means the entire Mixed Property Development of Bedford Place consisting of the Development Property, and existing as one Planned Community within which the Condominium exists therein as a separately administered part thereof.

"Development Property" means all of that real property more particularly described within Exhibit "RMD-A" attached hereto and incorporated herein by reference, together with all rights, easements, and obligations appurtenant thereto.

"Director" means a member of the HOA Board of Directors.\*

"First Mortgagee" means the holder of a first in priority mortgage on any Lot.

"HOA" means the Bedford Place Homeowners' Association, Inc., a North Carolina nonprofit corporation, formed and serving pursuant to G.S. 47F-3-101 as the lot owners' association to manage and administer the entire Mixed Property Development of Bedford Place as a single Planned Community in accordance with the NCPA and this RMD; and also serving in addition thereto pursuant to G.S. 47C-2-120 (Master Associations) as the COA's Master Association to separately manage and administer the Condominium in the capacity of its unit owners' association as defined in G.S. 47C-1-101 in accordance with the NCCA, the RCD, and to the extent not inconsistent therewith, this RMD.

"Instruments" means without limitation all of the following: This RMD; the Articles, the Bylaws, the Rules and Regulations, the Plats and Plans, and any exhibits or other documents attached to or incorporated within any of the foregoing, as all the same are validly adopted or amended from time to time. All of the Instruments are and shall be incorporated herein by reference.\*

"Lease" means any oral or written lease, use, tenancy, sublease, rental, or other occupancy agreement for any Lot.\*

"Limited Common Elements" means those portions of the Common Elements allocated by this RMD or the NCPA, for the exclusive use thereof by one or more but fewer than all of the Lots.\*

"Lot" means a physical portion of the Development designated for separate ownership or occupancy by its Lot Owner(s). Each separate Villa is a separate Lot. Each separate Townhome is a separate Lot.+

"Lot Owner" means any Person(s) owning an interest in any Lot, but does not include any Person(s) having an interest in any Lot solely as security for an obligation.+

"Majority" means greater than fifty percent (50%) in any context, unless a different percentage is expressly required by any applicable Instrument or by law.

"Mixed Property" means the mixed manner in which various different legal forms of property simultaneously exist within and as a part of the larger Development of Bedford Place.

"NCCA" means the North Carolina Condominium Act as codified in Chapter 47C of the North Carolina General Statutes, as amended from time to time.

"NCPA" means the North Carolina Planned Community Act as codified in Chapter 47F of the North Carolina General Statutes, as amended from time to time.

"Occupant" means any Person(s), including, without limitation, any guest, customer, invitee, tenant, lessee or licensee of any Owner, occupying, using or otherwise visiting a Lot.\*

"Officer" means an officer of the HOA.\*

"Owner" means a "Lot Owner".\*

"Person" means without limitation a natural person, corporation, trust, estate, partnership, association, joint venture, government, or any other legally recognized entity.

"Planned Community" pursuant to the NCPA means real estate with respect to which any person, by virtue of that person's ownership of a lot, is expressly obligated by a declaration to pay real property taxes, insurance premiums, or other expenses to maintain, improve, or benefit other lots or other real estate described in the declaration. For purposes of the NCPA, neither a cooperative nor a Condominium is a Planned Community, but real estate comprising a Condominium or cooperative may be part of a Planned Community. (G.S. 47F-1-103.23).

"Plats and Plans" mean those Plats and/or Plans of the Development and/or Condominium validly prepared and recorded by the Declarant or the HOA pursuant to the Acts or other state law in the Transylvania County Registry, including but not limited to those already recorded in Plat File 10, Slides 155 through 157, and Plat File 10, Slides 501 and 504 thereof.

"RCD" means the Restated Condominium Declaration for Bedford Place Condominiums attached as Exhibit "RMD-D" to this RMD and incorporated herein by reference together with the Instruments separately defined therein.

"RMD" means this Restated Master Declaration of Covenants, Conditions, and Restrictions for Bedford Place a Mixed Property Planned Community Development Comprised of Twenty Seven (27) Villas, Fifteen (15) Townhomes, and a Four (4) Unit Condominium, together with the Instruments defined herein, as all the same may be validly amended from time to time.

"Rules and Regulations" or "RRs" means the rules and regulations of the Development validly adopted, promulgated, or amended by the HOA from time to time.\*

"Townhome" means a physical portion of the Development designed for separate ownership or occupancy by a Townhome Owner as a separate Lot within the Planned Community Development.

"Unit" means a "Condominium Unit" as defined above.

"Unit Boundaries" means "Condominium Unit Boundaries" as defined above.

"Unit Owner" means "Condominium Unit Owner" as defined above.

"Villa" means a physical portion of the Development designed for separate ownership or occupancy by a Villa Owner as a separate Lot within the Planned Community Development.

## ARTICLE II SUBMISSION OF DEVELOPMENT

The entire Development, the Lots, and every interest of any Person(s) whatsoever owned or otherwise existing therein are intended to be, and shall be: owned, held, transferred, sold, conveyed, disposed of, acquired, inherited, assigned, used, leased, occupied, mortgaged, encumbered, and/or deeded into trust, subject to the terms, conditions, and provisions of the NCPCA and this RMD, as amended from time to time hereafter.

In addition to the foregoing, the Condominium portion of the Development only shall also be subject to the NCCA and those additional terms, conditions, and provisions of the RCD attached hereto and incorporated herein by reference as Exhibit "RMD-D".

## ARTICLE III DESCRIPTION OF DEVELOPMENT

### ***Section 3.01      Name and Location:***

The Development governed by this RMD is named: "BEDFORD PLACE", and is located within the City of Brevard, Transylvania County, North Carolina.

### ***Section 3.02      Description of Development:***

- (a) The Development exists as a single Planned Community and is classified as a Mixed Property Development containing three distinctly different forms of property simultaneously existing therein.
- (b) The Development consists of all the Development Property as more particularly described within Exhibit "RMD-A" attached hereto and incorporated herein by reference, together with all rights, easements, and obligations appurtenant thereto, including but not limited to those set forth within the NCPCA and this RMD.
- (c) Portions of the Development are designated by the Plats and Plans for the separate ownership thereof as individual Lots.
- (d) The Condominium Property is deemed by operation of law to be exclusively owned by all the Condominium Unit Owners as more particularly described within the RCD and the NCCA.

### ***Section 3.03      Lots, Allocated Interests, & Owner Rights:***

- (a) The Development contains a total of Forty Six (46) Lots comprised of three kinds of privately owned property designated for separate ownership thereof being more specifically: Fifteen (15) Townhomes, Twenty Seven (27) Villas, and Four (4) Condominium Units.
- (b) The Villas and Townhomes are more fully described and depicted by the Plats and Plans thereof including but not limited to the "Final Plat of Bedford Place" recorded in Plat File 9, Slide 740, Transylvania County Registry for the Villas; and the "Townhome Plat of: Bedford Place Phase II" recorded in Plat File 10, Slide 956 and in Plat File 11, Slide 55, Transylvania County Registry for the Townhomes. Each individual Lot is separately identified therein by its numeric or alphanumeric character being 1-27 for the Villas, 5-19 for the Townhomes.
- (c) The Condominium Units (which in addition to being separate Units as described within the NCCA and RCD, are also deemed for purposes of this RMD and the NCPCA to be considered as separate Lots within the Development) are more fully described within the RCD.
- (d) Each Lot consists of the area within its respective vertical and/or horizontal boundaries together with the dwellings located therein, and in addition thereto, subject to any additional rights or limitations imposed by the NCPCA and this RMD, each Lot also consists of the following rights, interest, and obligations:
  - (i) A non-exclusive right of each Owner to use and enjoy the Common Elements, subject to RRs.
  - (ii) The "Allocated Interest" of each Lot as defined herein, being allocated between and among the Lots as originally established by the Declarant in proportion to the approximate percentage of the fair market value each Lot, including all existing or potential improvements thereto, bears in relation to the aggregate fair market value of all Lots in the Development, including all existing or potential improvements thereto, as the same is more particularly described within Exhibit "RMD-C" attached hereto and incorporated herein by reference.
  - (iii) The automatic and mandatory membership in the HOA of every Owner of any fee interest in any Lot (including for purposes hereof, each Unit), which membership shall continue indefinitely without cessation during the period of any such ownership.

- (e) Each Lot shall constitute for all purposes a separate parcel of real property, which may be owned in fee simple which subject to the provisions of the Acts and this RMD, may be conveyed and encumbered like any other property. The rights, interests, and obligations appurtenant to each Lot shall not be separated from any Lot to which it appertains, and shall be deemed to be conveyed or encumbered with such Lot even though such interest is not expressly mentioned or described in any purported conveyance thereof or by any other instrument.

***Section 3.04      Common Elements:***

The Common Elements consist of all portions of the Development other than the Condominium Property and the specifically designated Lots, provided however certain portions of the Common Elements may be further classified as Limited Common Elements as described hereinbelow.

***Section 3.05      Limited Common Elements:***

Limited Common Elements are those portions of the Common Elements which are reserved by this RMD or by operation of law for the exclusive use thereof by one or more, but fewer than all of the Lots. Limited Common Elements are not separate and apart from the Common Elements in general, but are limited only with respect to the exclusive use thereof by the Lot(s) to which they are reserved. The following shall be Limited Common Elements:

- (a) Any driveway, parking area, walkway, entrance, foyer, lobby, hallway, steps, elevator, stairway, or means of access to the door of any Lot, together with any enclosure therefore, which is appurtenant to, or otherwise designed to serve one or more, but not all of the Lots, shall be a Limited Common Element appurtenant to the Lot(s) so served.

## ARTICLE IV ADMINISTRATION OF DEVELOPMENT

***Section 4.01      Name & Form of Lot Owners' Association:***

The Development shall be managed and administered by the Bedford Place Homeowners' Association, Inc., (the "HOA") a North Carolina Nonprofit Corporation, simultaneously serving in dual management and administrative capacities over both the Development and the Condominium in accordance with the Acts, this RMD, the RCD, and the applicable Instruments.

***Section 4.02      Incorporation of HOA Instruments by Reference:***

The terms, conditions, and provisions of the Articles, Bylaws, and Rules and Regulations, of the HOA as the same may be validly adopted and/or amended from time to time are hereby incorporated into this RMD as if fully set forth herein and shall be binding upon all Lot Owners.

***Section 4.03      HOA Membership:***

Each Lot Owner (including for purposes of this RMD, each Unit Owner) shall automatically be a member of the HOA. Ownership of a fee interest in a Lot shall be the sole qualification for membership, and membership shall be appurtenant to and shall not be separated from such ownership. Pursuant to G.S. 47F-3-101 of the NCPA, only Lot Owners (including for purposes of this RMD, the Unit Owners) may be members of the HOA.

***Section 4.04      Administration of Development by HOA:***

The HOA shall manage and administer the affairs of the Development as a single Planned Community pursuant to, and in accordance with, the NCPA, this RMD, and the Instruments, by serving in the actual capacity of its lot owners' association as defined in G.S. 47F-3-101 of the NCPA.

***Section 4.05      Separate Administration of Condominium by HOA:***

The HOA in addition to the foregoing shall also separately manage and administer the affairs of the Condominium pursuant to and in accordance with the NCPA, this RMD, the RCD, and the Instruments thereof by serving as a Master Association pursuant to G.S. 47C-2-120 (Master Associations) in the actual capacity of the Condominium's unit owner's association as defined in G.S. 47C-3-101. In so doing, the COA membership shall at all times be entitled to exclusively elect at least one (1) voting Board member to the Board of the HOA, but in no event less than Twenty percent (20%) of the total voting Board membership at any given time.

***Section 4.06      Duties and Powers of the HOA:***

- (a) Development Administration: Unless otherwise expressly provided herein, whenever acting in the capacity of the Development's lot owners' association, the HOA shall have and be deemed to possess all of the following non-exclusive duties and powers with respect thereto:
- (i) All those duties and powers of a lot owners' association set forth within the NCPA, including but not limited to those powers specifically enumerated in G.S. 47F-3-102 (Powers



of owners' association) the terms and provisions of which are incorporated into this RMD by reference.

- (ii) All those additional duties and powers of the HOA acting as the lot owners' association over the entire Development as a Planned Community which are granted thereto by the terms of this RMD, the Instruments, or by other applicable law including without limitation those duties & powers set out in the North Carolina Nonprofit Corporation Act (G.S. 55A *et. seq.*).
- (iii) The HOA shall discharge their duties with the same degree of care that a director is required to exhibit, pursuant to N.C. Gen. Stat. §55-8-30. Any acts by HOA shall be subject to the business judgment rule, which establishes a rebuttable presumption that HOA decisions have a reasonable basis, are informed and are reached in good faith. Such discharge of duties shall be made: (1) In good faith; (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (3) In a manner he reasonably believes to be in the best interests of the condominium owners.

- (b) Condominium Administration: Whenever acting as the COA's Master Association in the capacity of the Condominium's unit owners' association the HOA shall have and be deemed to possess all of those non-exclusive duties and powers with respect to the Condominium which are otherwise granted to the COA pursuant to the NCCA and the RCD to exercise the same on behalf thereof in the best interests and welfare of the Condominium Unit Owners, as more particularly described within the RCD.

#### **Section 4.07 HOA Action through Board and/or Officers:**

Unless otherwise expressly stated within this RMD or the Instruments, or unless otherwise expressly required by law including without limitation the North Carolina Nonprofit Corporation Act, or the NCPCA with respect to the HOA's actions taken pursuant to its Development administration capacity, or the NCCA with respect to the HOA's actions taken pursuant to its Condominium administration capacity; the powers provided herein or otherwise granted to the HOA serving in either such capacity, may be exercised on behalf thereof by the HOA's Board, or otherwise by the HOA's authorized Officers, agents, or employees, and all without any further consent or action being required with respect thereto on the part of the members of either the HOA for Development administration or the COA for Condominium administration.

#### **Section 4.08 Indemnification of Board and Officers:**

Subject to, and in accordance with the provisions and/or limitations set forth within the Instruments, if any, and to the maximum extent otherwise allowed by law, each Director and each HOA Officer, shall be entitled to indemnification by the HOA in connection with any threatened, pending, or completed action, suit, or proceeding, with respect to which such person was or is a party by reason of the fact that such person is or was an HOA Director or Officer.

#### **Section 4.09 Rules and Regulations of the HOA:**

Without limiting the generality of this Article, the HOA Board of Directors shall have the power and authority to make, amend, and revoke reasonable Rules and Regulations ("RRs") concerning the use of the Development including without limitation, the use of the Lots and/or the Common Elements thereof, as the same may be adopted or amended from time to time, and the RR's shall be binding upon each Lot Owner or Occupant (including for purposes hereof each Unit Owner or Occupant).

#### **Section 4.10 Professional Management of the HOA:**

The Board may employ a professional management Person to manage the operation and affairs of the Development and/or the Condominium on its behalf. Any management Person so employed shall be employed only pursuant to a written agreement executed on behalf of the HOA by a Majority of the Board. All such management agreements shall be terminable by the HOA with cause upon thirty (30) days prior written notice and without a termination fee, and upon ninety (90) days prior written notice without a termination fee without cause, and the term thereof may not exceed one (1) year. The management Person shall be the agent of the Board and the HOA. To the extent permitted by law, the Board shall be authorized to delegate to such management Person such of the duties and powers of the HOA and of its Board and/or Officers as the Board shall determine necessary or desirable.

#### **Section 4.11 Enforcement of Director's Duties:**

In the event that the Board shall fail to perform any duty or duties which under the terms and provisions of applicable law including without limitation the Acts, this RMD or the Instruments, are required to be performed by it, any Owner or First Mortgagee who is aggrieved by such failure, shall have the right to proceed in equity to compel the Board to perform such duty or duties. In no event however, shall any Director have any liability to any Owner or First Mortgagee for any failure by it, or by the Board, to perform any such duty or duties, except to any extent such liability is specifically provided for in the North Carolina Nonprofit Corporation Act with respect to the Board actions taken in regard to any of its management capacities provided for herein.

#### **Section 4.12 HOA Property:**

All funds received, and title to any property acquired by the HOA on behalf of the Development as a single Planned Community, and any proceeds thereof, after deducting the costs incurred by the HOA in receiving or acquiring the same, shall be held for the mutual benefit of the Lot Owners (including the Unit Owners) of the Development as herein provided, and for the purposes herein stated. The shares of the Owners in the funds and

assets of the HOA cannot be individually assigned, hypothecated or transferred in any manner except as an appurtenance to a Lot.

### **Section 4.13 Records of the HOA:**

The HOA shall keep and maintain records in accordance with G.S. 47F-3-118 of the NCPCA and G.S. 55A-16 of the North Carolina Nonprofit Corporation Act. The HOA shall also keep and maintain separate records at all times with respect to any and all meetings held, actions taken, or funds handled in its capacity as the COA's Master Association in accordance with G.S. 47C-3-118 of the NCCA and G.S. 55A-16 of the North Carolina Nonprofit Corporation Act.

## **ARTICLE V MAINTENANCE & ASSESSMENTS**

### **Section 5.01 Statutory Maintenance Responsibility of HOA:**

Unless otherwise expressly provided herein, the HOA shall have all of the statutory maintenance responsibilities and duties of a lot owners' association which are provided for within the NCPCA (including but not limited to those specifically enumerated within G.S. 47F-3-107 thereof entitled "Upkeep of planned community, responsibility and assessments for damages"), the terms and provisions of which are incorporated into this RMD by reference and paraphrased for convenience purposes only as follows:

- (a) *Except as otherwise provided in this RMD, G.S. 47F-3-113(h) or subsection (b) of this section, the association is responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the lot owners as necessary to recover the costs of such maintenance, repair, or replacement except that the costs of maintenance, repair, or replacement of a limited common element shall be assessed as provided in G.S. 47F-3-115(c)(1). Except as otherwise provided in this RMD, each lot owner is responsible for the maintenance and repair of his lot and any improvements thereon. Each lot owner shall afford to the association and when necessary to another lot owner access through the lot owner's lot or the limited common element allocated to the lot owner's lot reasonably necessary for any such maintenance, repair, or replacement activity.*
- (b) *If a lot owner is legally responsible for damage inflicted on any common element or limited common element, the association may direct such lot owner to repair such damage, or the association may itself cause the repairs to be made and recover damages from the responsible lot owner.*
- (c) *If damage is inflicted on any lot by an agent of the association in the scope of the agent's activities as such agent, the association is liable to repair such damage or to reimburse the lot owner for the cost of repairing such damages. The association shall also be liable for any losses to the lot owner.*
- (d) *When the claim under subsection (b) or (c) of this section is less than or equal to the jurisdictional amount established for small claims by G.S. 7A-210, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the executive board to determine if a lot owner is responsible for damages to any common element or the association is responsible for damages to any lot. If the executive board fails to appoint an adjudicatory panel to hear such matters, hearings under this section shall be held before the executive board. Such panel shall accord to the party charged with causing damages notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. This panel may assess liability for each damage incident against each lot owner charged or against the association not in excess of the jurisdictional amount established for small claims by G.S. 7A-210. When the claim under subsection (b) or (c) of this section exceeds the jurisdictional amount established for small claims by G.S. 7A-210, liability of any lot owner charged or the association shall be determined as otherwise provided by law. Liabilities of lot owners determined by adjudicatory hearing or as otherwise provided by law shall be assessments secured by lien under G.S. 47F-3-116. Liabilities of the association determined by adjudicatory hearing or as otherwise provided by law may be offset by the lot owner against sums owing to the association and if so offset, shall reduce the amount of any lien of the association against the lot at issue.*
- (e) *The association shall not be liable for maintenance, repair, and all other expenses in connection with any real estate which has not been incorporated into the planned community.*

### **Section 5.02 Development Landscaping Maintenance:**

Subject to any special manner of assessing the costs related thereto, the HOA shall maintain the lawn and landscaping within the Common Elements installed by the Declarant, the HOA, or otherwise installed by an Owner with the prior written approval of the HOA which approval may be conditionally granted or may require such Owner provide any such maintenance.

### **Section 5.03 Responsibility for Streets & Parking Area Maintenance:**

The street(s) within the Development are public streets, the right of way and design thereof having been approved and accepted for maintenance by the NC Dept. of Transportation and/or City of Brevard. The HOA shall be responsible for maintaining any drives or parking areas located within the Common Elements, and the costs thereof shall be allocated as more particularly described within Article VI below. Each Villa Owner shall be solely responsible for maintaining any and all drives or parking areas located within their respective Villa.

### **Section 5.04 Townhome Maintenance Responsibility:**

Except as otherwise expressly stated herein, each Townhome Owner shall at their sole expense, maintain, repair and replace any and all portions of their individually owned Townhome, including without limitation the interior, siding, roof, gutters, downspouts, paint, glass, decks, patios, and all exterior and structural portions thereof.

- (a) **Party Walls, Roofs, & Foundations:** Each wall, roof, foundation and foundation wall which is built as a part of the original construction of the Townhomes and placed on or traverse to the dividing line between them, and all reconstruction or extensions of such structures shall constitute a party wall, roof, foundation and foundation wall, and to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and lateral support in below-ground construction and liability for property damage due to negligence or willful acts or omissions shall apply thereto.
- (b) **Shared Repairs:** The cost of reasonable repairs and maintenance of a party wall shall be shared by the Owners who make use of the wall, or benefit therefrom, in proportion to such use and benefit. If repair is necessitated by the occurrence of a casualty for which the HOA has insurance, then such costs as are set forth herein shall be the responsibility of the Board.
- (c) **Insurance:** Each Townhome Owner covenants and agrees with the other Owners and the HOA that they will obtain at their sole expense and carry in place at all times, property insurance on their respective Townhomes equal to not less than One Hundred percent (100%) of the replacement value, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage perils, and shall provide a certificate of proof thereof to the HOA at all times and in any form which the HOA may reasonably deem necessary to ensure that the Townhomes remain adequately insured against potential loss or casualty which form may include without limitation, a requirement that the HOA be notified at least Thirty (30) days prior to any pending lapse or material change in such policy. In the event any Townhome Owner shall fail to obtain or maintain such insurance, the HOA shall obtain such insurance for the Townhome Owner, their Mortgagees, and the HOA, all as loss payees and as their interest may appear, or otherwise in any manner deemed reasonably necessary within the sole discretion of the Board to adequately provide for the continual insurance of all Townhomes against loss or casualty. In any such event, the costs thereof shall be specifically allocated and assessed exclusively to any such Townhome.
- (d) **Repairs:** Each Townhome Owner covenants and agrees with the other Owners and the HOA: (i) to build, repair or restore their Townhome in the event of damage thereto, and to apply the full amount, to the extent necessary, of any and all insurance proceeds to the restoration or repair of such Townhome; and (ii) to assist the HOA in keeping the Lot in good repair as required by this RMD or the Instruments, and in the event of any failure thereof, the HOA may exercise its right to self help in resolving such failure in the same manner as described in Section 5.05 hereinbelow for Villas.
- (e) **Destruction by Fire or other Casualty:** If a party wall, roof, foundation or foundation wall is destroyed or damaged by fire or other casualty, then consistent with the provisions hereof, any Owner who has used the structure may restore it, and if the other Owners thereafter make use of the structure, they shall contribute to the cost of restoration thereof in proportion to such use; without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.
- (f) **Easement for Construction:** The Owner of any Lot may construct, reconstruct or extend a party wall, roof, foundation or foundation wall in any direction (subject to and within the limitations of architectural control and other limitations of this RMD) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, the Owner shall restore the adjoining Lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.
- (g) **Right of Contribution Runs with Land:** The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.
- (h) **Certification by Adjoining Property Owner that No Contribution is Due:** If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining property Owner is owed any money under any right of contribution as provided for hereunder, request the adjoining property Owner(s) to certify that no money is then due under any right of contribution. It shall be the duty of each adjoining property Owner to make such certification immediately upon request and without charge; provided, however, that where the adjoining property Owner claims an amount of money due under a right of contribution the certification shall contain a recital of the amount so claimed.
- (i) **Arbitration:** The Townhome Owners agree to arbitration in the event of any dispute arising between them concerning a party wall or other improvement covered by this Section, and each shall choose one (1) arbitrator, which arbitrators shall choose one (1) additional arbitrator, and the majority decision thereof shall be binding upon the parties.

### **Section 5.05 Villa Owner Maintenance Responsibility:**

Each Villa Owner shall at their sole expense, maintain, repair and replace any and all portions of their Villa, including the dwelling unit, driveway, and parking areas located thereon, except those portions, if any, as have been subject to use by the HOA for the benefit of exercising one or more of the easements contained herein to the extent of such use only.

In no event shall the HOA have any responsibility for maintaining any portion of any Villa except as specifically provided herein, provided however, that in the event any Villa Owner shall fail to maintain any portion of his Villa so as to render the same in substantial disrepair, the HOA shall have the right, after reasonable notice and an opportunity to be heard in the same manner as a hearing conducted pursuant to G.S. 47F-3-107.1 to any such Villa Owner, to go upon such Villa Owner's property and maintain the same. In any such event, the HOA shall assess the costs associated therewith as a special assessment exclusively against such Villa Owner.

### **Section 5.06 Condominium Maintenance & Responsibility:**

The HOA, acting as the Master Association of the COA, shall have all of the same powers, duties, and responsibilities for the maintenance of the Condominium which the COA itself is deemed to have pursuant to the NCCA and the terms and provisions of the RCD, subject however to the requirement that any maintenance, repairs, replacements, or other expenditures by the HOA on the Condominium pursuant thereto or otherwise for the sole benefit of the Condominium or the Unit Owners therein, shall be assessed solely against such Unit Owners in accordance with the RCD. In no event shall any non condominium property owner be assessed for any maintenance, repair, or replacement to any portion of the Condominium, it being the intent hereof to place the entire burden therefore solely upon the Condominium Unit Owners in the manner set forth within the NCCA and the RCD.

## **ARTICLE VI ASSESSMENTS & LIENS**

### **Section 6.01 Assessments:**

Each Lot is and shall be subject to Regular and Special assessments existing before, on, and after the effective date of this RMD. Each Lot Owner covenants and agrees to pay to the HOA all applicable assessments for Common Expenses, capital improvements, or any other lawful purposes authorized by this RMD, the NCPCA, or other laws.

Unless otherwise expressly provided herein, the HOA shall make assessments for Common Expenses pursuant to G.S. 47F-3-115 of the NCPCA (Assessments for common expenses), the terms and provisions of which are incorporated into this RMD by reference and paraphrased for convenience purposes only as follows:

- (a) *The HOA shall make an assessment for Common Expenses at least annually.*
- (b) *Except for assessments under subsections (c), (d), and (e) of this section, all common expenses shall be assessed against all the lots in accordance with the allocations set forth in this RMD. Any past-due common expense assessment or installment thereof bears interest at the rate established by the HOA not exceeding eighteen percent (18%) per year.*
- (c) *To the extent required by the Declaration:*
  - (1) *Any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the lots to which that limited common element is assigned, equally, or in any other proportion that the declaration provides;*
  - (2) *Any common expense or portion thereof benefiting fewer than all of the lots shall be assessed exclusively against the lots benefited; and*
  - (3) *The costs of insurance shall be assessed in proportion to risk and the costs of utilities shall be assessed in proportion to usage.*
- (d) *Assessments to pay a judgment against the association may be made only against the lots in the planned community at the time the judgment was entered, in proportion to their common expense liabilities.*
- (e) *If any common expense is caused by the negligence or misconduct of any lot owner or occupant, the association may assess that expense exclusively against that lot owner or occupant's lot.*
- (f) *If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.*

### **Section 6.02 Assessment for Common Expenses:**

The amount of all Common Expenses not specially assessed against one or more but less than all of the Lots pursuant to the provisions of this RMD, less the amount of all undistributed and otherwise unreserved HOA funds, shall be assessed against the Lots in accordance with the Allocated Interest of each such Lot as shown within Exhibit "RMD-C" attached hereto and incorporated herein by reference. The general annual assessment shall be established by the Board in the manner set forth in this section. At least thirty (30) days prior to the annual meeting of the HOA, the HOA shall prepare and submit in writing to the Lot Owners an estimated budget of the Common Expenses for the next succeeding fiscal year to be paid by Assessments collected from the Lot Owners, together with the amount of the annual Assessment payable by each Lot Owner during such fiscal year. If the estimated

budget proves inadequate for any reason at any time during the year, then upon the affirmative vote of Lot Owners having at least sixty seven percent (67%) of the total allocated HOA votes, the Board may levy at any time a further Assessment against the Lot Owners and notify the Lot Owners accordingly. If for any reason an annual budget is not approved by the Board, a payment in the amount required by the last prior Assessment shall be due upon each Assessment due date until changed by a new Assessment. Each Lot Owner shall be obligated to pay such Assessments to the HOA in the manner and pursuant to any payment schedule specifically established by the Board of Directors as modified from time to time. Notwithstanding G.S. 47F-3-114 (Surplus Funds) in any year in which there is an excess of Assessments and other income over expenditures, the Board, by resolution, and without the necessity of a vote of the Lot Owners, shall determine either to apply such excess or any portion thereof against and reduce the subsequent year's Assessments, or allocate the same to one or more reserve accounts of the HOA. Common Expenses of the HOA to be paid through general annual Assessments shall include, but shall not necessarily be limited to, the following:

- (a) HOA Management/Administration fees/expenses, including without limitation, legal/accounting fees.
- (b) Utility charges for utilities serving the Common Elements, and charges for other common services provided to all Lot Owners including any utilities provided to the Lots not separately metered.
- (c) The cost of any master or blanket policies of insurance purchased for the benefit of all Lot Owners and/or the HOA, as required by the NCPCA or this RMD, and such other insurance coverage as the Board determines to be in the interest of the HOA and/or the Lot Owners.
- (d) The expense of maintaining, operating and/or repairing the Common Elements.
- (e) Such other expenses as may be determined from time to time by the Board to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against each Lot.
- (f) The expense for establishing and maintaining an adequate reserve fund or funds for the periodic maintenance, repair and replacement of those Common Elements (including Limited Common Elements the responsibility for which is not otherwise specifically assessed herein) which the HOA may be obligated to maintain, and of reserves to cover operating contingencies or deficiencies arising from unpaid Assessments or liens, emergency expenditures, and other matters, as may be authorized from time to time by the Board.
- (g) Any and all other Common Expenses as are permitted by the NCPCA or state law.

### ***Section 6.03      Special Assessments & Special Allocations of Assessments:***

- (a) Capital Improvements. In addition to any other assessments authorized herein, the HOA may charge each Lot, in any fiscal year of the HOA, a Special Assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction of a capital improvement upon and to any part of the Common Elements of the Development, including fixtures and personal property related thereto; provided that any such Special Assessment must be approved by the affirmative vote of at least Sixty Seven percent (67%) of all HOA votes allocated among Lots at the time of such vote.
- (b) Misconduct of Owner/Occupant. The HOA may charge any Lot(s) a special assessment for any Common Expenses incurred as a result of misconduct by any Owners or Occupants thereof.
- (c) Special Assessments for Damages & Fines. If a Lot Owner is legally responsible for damage inflicted on any Common Element, the HOA may direct such Lot Owner to repair such damage, or may itself cause such repairs to be made and recover damages from the responsible Lot Owner, all as provided within G.S. 47F-3-107.
- (d) Discretionary Allocation of Certain Common Expenses. Any Common Expenses occasioned by the conduct of less than all of the Lot Owners or their Occupants may be specially assessed by the Board against the Lot(s) thereof. Any Common Expenses benefitting less than all of the Lots, may be assessed by the Board against the Lot(s) benefitted in accordance with the benefit received. Any such assessment(s) if levied shall be made equitably by the Board within its sole and reasonable judgment and specify the amount and due date of such assessment. In no event shall the HOA or any Board Member have any liability for any judgment or decision made reasonably in good faith under this paragraph.
- (e) Special Allocation of Assessments for Limited Common Elements. Unless otherwise expressly provided herein, Common Expenses associated with the maintenance, repair, or replacement of any Limited Common Element shall be assessed exclusively against the Lot(s) to which such Limited Common Element is assigned. Subject to the Board's right to specifically allocate any such assessment in accordance with its discretionary allocation authority provided hereinabove, such assessments, by default, shall be divided equally among multiple Lots assigned to any such Limited Common Element.
- (f) Special Allocation of Assessments for Condominium Expenses: Notwithstanding anything herein to the contrary, any and all Common Expenses of any kind whatsoever provided to or incurred for the exclusive benefit of the Condominium, including without limitation for the management, maintenance, repair, operation, or insurance thereof, shall be specifically allocated to and assessed exclusively against the Unit Owners thereof in accordance with the NCCA and the RCD. It is the express intent of this provision to prevent any Townhome or Villa Owners from being assessed for any portion of such expenses incurred for the sole benefit of the Condominium or its Unit Owners.

- (g) Special Allocation of Assessment for Townhome Expenses: Notwithstanding anything herein to the contrary, any and all Common Expenses of any kind whatsoever provided to or incurred for the exclusive benefit of one or more Townhomes, including without limitation for the maintenance, repair, operation, or insurance thereof, shall be specifically allocated to and assessed exclusively against those particular Townhome Owners receiving the benefits thereof in proportion with their Allocated Interest in the Common Expenses. It is the express intent of this provision to prevent any Unit or Villa Owner from being assessed for any portion of such expenses incurred for the sole benefit of one or more Townhomes, and further to prevent the Townhome Owners within any particular building not otherwise benefited by any such expenses from being assessed for any portion thereof.

#### **Section 6.04      Payment and Collection of Assessments:**

- (a) Liens. Each of the applicable assessments described above, or otherwise authorized by law including without limitation the NCPA or this RMD, together with interest thereon and the costs of collection thereof, including reasonable attorneys' fees, and together with late fees and interest, if any, shall be a continuing lien upon each Lot and the personal obligation of such Lot's Owner(s) and shall run with and burden the land notwithstanding any conveyance thereof unless otherwise expressly stated herein.
- (b) Payment Schedule. Assessments whether regular, special, or otherwise shall be paid in such manner and on such dates as the Board may establish, which may include installments, early payment discounts, reasonable late fees (see limitation below), and special requirements for Lot Owners with a history of late payment.
- (c) Non Exemption/Abatement. No Lot Owner may exempt himself from liability for assessments by non-use of Common Elements, abandonment of his Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Lot Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the HOA to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action taken by the HOA.
- (d) Interest. Any assessment against any Lot which remains unpaid for a period of thirty (30) days after its regular due date, or otherwise after delivery of a request for payment thereof shall be deemed past due, and interest shall accrue on any such unpaid amount from the date that it was otherwise due at the rate to be established by the Association not exceeding eighteen percent (18.00%) per annum.
- (e) Late Fees. In addition to the foregoing a reasonable charge for late payment of assessments, not to exceed the greater of twenty dollars (\$20.00) per month or ten percent (10%) of any assessment installment unpaid shall be assessable and due for every applicable late payment period including the date upon which the assessment initially became past due and continuing until such time as all past due assessments together with any applicable interest and late charges are paid in full.
- (f) Application of Payments. All payments on account shall be applied first to any of the aforesaid costs of collection, then to late charges, then to interest owed, and finally to the principal amount of any past due Assessment.
- (g) Certificates of Assessments. The HOA shall, within ten (10) business days of any such demand, and for a reasonable charge, furnish a certificate signed by an officer of the HOA stating whether all assessments against a specified Lot have been paid. A properly executed certificate of the HOA as to the status of assessments against a Lot shall be binding upon the HOA as of the date of its issuance.



- (h) **Enforcement.** The HOA shall have the power to take whatever action is necessary, at law or in equity, to collect any past due assessments, together with interest, late fees and costs of collection, including reasonable attorneys' fees. When an assessment becomes thirty (30) days past due, the lien created hereunder may be filed by the HOA against the delinquent Lot Owner in the office of the Clerk of Superior Court of Transylvania County in accordance with G.S. 47F-3-116 of the NCPA, and thereafter may be enforced against any such Lot Owner in accordance with the terms thereof including but not limited to the ability of the HOA to foreclose against the Lot on which the lien is placed in like manner as a mortgage on real estate. The lien provided for in this provision or otherwise acquired pursuant to the NCPA shall be in favor of the HOA and shall be for the benefit of all its Owners. The HOA, acting through the Board, shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, encumber and convey the same. No lot shall be classified as withdraw-able property and any buyer that acquires title to property through a foreclosure sale, either judicial or non-judicial, will take subject to the covenants, conditions, and restrictions set forth within this RMD including any Instruments or Exhibits incorporated herein by reference, as all may be validly amended or adopted from time to time hereafter. In addition thereto, each such assessment, together with interest, late fees, and costs of collection, including reasonable attorneys' fees shall also be deemed the personal obligation and liability of the Owner(s) of any Lot to which the same are appurtenant, who shall remain liable to the HOA for the payment thereof notwithstanding the conveyance of any such Lot or the continuing lien thereupon in favor of the HOA until otherwise paid in full, and may be enforced by the HOA by filing a legal action for the collection thereof in the same manner as a debt owed thereto in addition to any other remedies authorized herein or otherwise by law.
- (i) **Protection of First Mortgagees.** Notwithstanding anything contained in this RMD or the Act which may be construed to the contrary, in the event any First Mortgagee that is an Institutional Mortgagee shall acquire title to any Lot by virtue of any deed in lieu of foreclosure of a First Mortgage, or by foreclosure itself, such First Mortgagee shall not be liable for, nor shall such Lot be subject to a lien for any Assessments chargeable to such Lot on account of any period prior to the time such First Mortgagee shall so acquire title to such Lot; provided however, that Common Expenses collectible thereafter from all Lot Owners, including such First Mortgagee, shall be paid thereby as set forth in this RMD.
- (j) **Suspension of Voting Privilege.** In addition to the foregoing, the Board may suspend the vote of any Owner, as well as the right of such Owner to use the Common Elements, during the period in which any Assessment or portion thereof remains unpaid after notice and an opportunity to be heard is provided pursuant to G.S. 47F-3-107.1 (Procedures for fines and suspension of planned community privileges or services) the terms and provisions of which are incorporated into this RMD as if fully set out herein.

## ARTICLE VII EASEMENTS

In addition to any easements validly created and shown by the Plats and Plans or other previously recorded legal instruments, the easements described in this Article are hereby made, granted, reserved, and established, subject to and in accordance with the following terms and conditions for the benefit of the HOA, unless otherwise stated herein:

### ***Section 7.01      Easement to Enjoy Common Elements:***

Every Owner and Occupant shall have a right and easement to use and enjoy the Common Elements located throughout the Development (including an irrevocable right to access, ingress, and egress to and from his Lot over those portions of the Common Elements specifically designated and intended for such purposes), and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions and limitations:

- (a) The right of the HOA to control the use and enjoyment of the Common Elements as provided by the terms of this RMD, which shall include, but not be limited to, the right of the HOA to limit the use and enjoyment thereof to the Owners and their respective Occupants, as well as to provide for the exclusive use of specific portions thereof at certain designated times by certain Owners or Occupants.
- (b) The right of the HOA, after notice and an opportunity to be heard is given in accordance with G.S. 47F-3-107.1 (Procedures for fines and suspension of planned community privileges or services) the terms and provisions of which are incorporated into this RMD as if fully set out herein, to suspend the rights of an Owner or their Occupants to use or enjoy any Common Elements of the Development for any period of time during which an Assessment against his Lot remains unpaid, or for a reasonable time for the infraction by any Owner or their Occupants of any provision of this RMD or the Instruments including but not limited to the Rules and Regulations, provided that in no event shall the easement for an irrevocable right of access to any such Owner's Lot as provided for hereinabove be denied.

### ***Section 7.02      Utility Easements:***

- (a) To the extent that any utility line, pipe, wire, or conduit serving any Lot(s), the Common Elements, or the HOA, shall lie wholly or partially within the boundaries of another Lot or the Common Elements, the same shall be burdened with an easement for the use, maintenance, repair and replacement of such

utility line, pipe, wire or conduit, such easement to be in favor of the Lots(s) or Common Elements served by the same, and the HOA.

- (b) There is hereby further reserved unto the HOA, its successors and assigns, and unto any public or quasi-public utility providing utility services to any portion of the Development, a non-exclusive privilege and easement, under and through a strip or tract of land five feet (5') in width measured from, and existing immediately adjacent to the outside property lines of all multiple family dwelling structures existing within the Development containing Condominium Units and/or Townhomes, for the purpose of installing, maintaining and repairing lines, pipes, conduit, equipment or facilities, or for the purpose of providing one or more utility services to one or more portions of the Development.

### ***Section 7.03      Encroachments:***

- (a) **General Encroachments:** If any portion of the Common Elements encroaches upon any Lot, or if any Lot encroaches upon the Common Elements or upon any other Lot as a result of the construction, reconstruction, repair, renovation or restoration of any portion of the Development by the Declarant, an easement for the encroachment and for the maintenance, repair and replacement thereof shall exist so long as the encroachment exists. Such encroachments may include but shall not be limited to overhanging eaves, gutters, downspouts, or walls.
- (b) **Overhangs & Zero Lot Lines:** There is also reserved unto the Owner of each Unit or Townhome an easement over and across a strip or tract of land five (5') feet in width and immediately adjacent to the Unit or Townhome line of any Unit or Townhome in which a dwelling is immediately abutting (zero lot line) for the purpose of allowing overhangs to encroach, and for the purpose of drainage, maintenance, and repair of any dwellings, together with the right of ingress, egress and regress thereover.

### ***Section 7.04      Maintenance and Repair of Common Elements:***

There shall be an easement in favor of the HOA and the Owners through, under and across the Lots, the Condominium Property, and the Common Elements as may be reasonably necessary for the installation, maintenance, repair and replacement of the Common Elements or other portions of the Development for which the HOA is responsible for the upkeep and maintenance thereof. The HOA and each such Owner may assign to any public or quasi-public utility some or all of the rights granted herein. Use of this easement shall be only upon prior notice during normal business hours, except that access may be had at any time in case of emergency.

### ***Section 7.05      Rights of Association:***

- (a) There shall be a general easement in favor of the HOA, its Directors, Officers, contractors, agents, and employees (including, but not limited to, any manager employed by the HOA) to enter upon the Development, or any portion thereof and to enter or take access through the Lots, the Condominium Property, or the Common Elements as may be reasonably necessary for the installation, maintenance, repair and replacement thereof; for making emergency repairs and for other work for the maintenance and operation of the Development and for the performance of their respective duties. Each owner shall afford to other Owners and to the HOA, their respective contractors, agents, representatives, and employees, such access through such Lot as may be reasonably necessary to enable the same to perform such work and to exercise and discharge their respective powers and responsibilities. Except in the event of emergencies however, such easements are to be exercised only during normal business hours and upon advance notice to, and with the permission of the Owner or Occupant of a Lot directly affected thereby, such permission not to be unreasonably withheld.
- (b) The HOA shall have the power to grant and accept permits, licenses and easements on, over, across and through the Common Elements for the installation, maintenance or operation of any improvements thereto or utilities or utility lines serving the Development. An easement is hereby established for the benefit of the County of Transylvania, City of Brevard, and any agency or utility performing or providing any of the following services over, across and through all Common Elements for the setting, removal, and reading of water and electricity meters, and the maintenance and replacement of water, electricity, sewer, cable, natural gas and drainage facilities. In addition thereto, an easement is hereby established over all of the Development for the benefit of the County of Transylvania, City of Brevard, and all other agencies and personnel performing any of the following duties and services: for the fighting of fire, mail delivery, private parcel delivery, collection of garbage, ambulance services, and police protection.

## **ARTICLE VIII INSURANCE & CASUALTY**

### ***Section 8.01      Statutory Insurance Obligation and Authority:***

The HOA shall obtain and maintain at all times insurance pursuant to G.S. 47F-3-113 of the NCPA, the terms and provisions of which are incorporated herein by reference as if fully set forth below.

### **Section 8.02 Other Insurance Obligations & Authority:**

The HOA shall obtain and maintain at all times in addition to the foregoing and to the extent not inconsistent therewith:

- (a) Property insurance obtained by the HOA pursuant to G.S. 47F-3-113(a)(1) covering not less than one hundred percent (100%) of the replacement costs of the insured property as otherwise described therein, and including extended perils coverage against vandalism, malicious mischief, debris removal, cost of demolition, windstorm, and water damage. Additionally the liability insurance obtained by the HOA pursuant to G.S. 47F-3-113(a)(2) shall cover not less than one million dollars (\$1,000,000.00) for single limit coverage as otherwise described therein;
- (b) Fidelity coverage against dishonest acts on the part of its directors, officers, employees, agents and volunteers responsible for handling funds belonging to, or administered by, the HOA in an amount at least equal to the sum of one fourth (1/4) of the previous fiscal year's annual assessments plus reserves collected for the entire Planned Community, or in such greater amount as the Board may determine; and
- (c) Such other types of insurance either required by applicable governmental authority, law, or authorized by the HOA from time to time.

### **Section 8.03 Notice:**

Pursuant to G.S. 47F-3-113(f) an insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the HOA and, upon written request, to any Lot Owner(s), mortgagee(s), or beneficiary(s) under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the HOA, each Lot Owner, and each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

### **Section 8.04 Special Assessment for Increased Risk:**

In the event activities are conducted within a Lot such as to materially increase the premium or cost of insurance obtained pursuant to the provisions hereof, then in that event, the increased amount of such premium shall be assessed against such Lot causing such increase.

### **Section 8.05 Eminent Domain:**

In the event that all or part of the Condominium shall be taken by any authority having the power of eminent domain, the allocation of the award for such condemnation and all related matters, such as the reallocation of liabilities for Assessments and Votes, shall be made in accordance with G.S. 47F-1-107 of the NCPA or other applicable law, and to the extent not inconsistent therewith as follows:

- (a) If any Lot or portion thereof, or the Common Elements of the Planned Community Development or any portion thereof is made the subject matter of a condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the holder of any First Mortgage on a Lot, will be entitled to timely written notice of any such proceeding or proposed acquisition, and no provision of this RMD will entitle the Owner or other person to priority over any Mortgagee with respect to the distribution of the proceeds of any award or settlement relating to such Unit.
- (b) In the event all or any part of the Common Elements of the Planned Community Development shall be taken in condemnation or by eminent domain, each Owner hereby grants an irrevocable power of attorney to the HOA to represent such Owner in any and all condemnation proceedings, negotiations, settlements, and agreements with the condemning authority, as they pertain only to such Owner's interest in the Common Elements of the Planned Community Development.

### **Section 8.06 Condominium Insurance:**

The HOA acting as the Master Association for the COA shall obtain any and all Insurance coverage for the Condominium which is required to be obtained and/or carried by the COA pursuant to the NCCA including but not limited to G.S. 47C-3-113 thereof, and the RCD. The costs of such Insurance shall be assessed solely against the Condominium Unit Owners in the manner set forth within the RCD for the same. The HOA may in its discretion obtain any blanket or master policies of insurance to adequately insure under a single policy, more than one of the obligations it is required to fulfill pursuant to the RMD or the RCD, provided the costs thereof are otherwise appropriately assessed pursuant thereto.

## **ARTICLE IX ARCHITECTURAL CONTROL & USE RESTRICTIONS**

### **Section 9.01 Intent:**

To assure a community of congenial Owners, and to protect the value of the Development and the Owners' interests therein, the entire Development (including the Villas, Townhomes, and Condominium/Units) shall be and

are subject to the Architectural Control & Use Restrictions set forth in this Article and to the extent not in conflict herewith, the HOA Bylaws and/or HOA Rules and Regulations as all are validly amended from time to time.

### **Section 9.02 Approval Required for Changes:**

To preserve the architectural appearance of the Development, 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 dwelling(s) or structure(s) on any Lot (including for purposes hereof any Condominium Units), or any other portion of the Development, including any Common Elements appurtenant thereto, nor shall any exterior addition to or change or alteration thereof be made, unless and until plans and specifications showing the nature, kind, shape, color, height, materials and location of the same shall have been submitted and approved in writing as to the harmony of external design and location in relation to surrounding structures and topography by the Board of Directors or by an architectural committee of Owners appointed by the Board of Directors in their sole discretion from time to time.

This provision shall not be construed or intended to limit or restrict routine repainting in the same or substantially the same color as such structure was previously painted, routine landscaping and trimming and normal routine maintenance and repair with the same or similar materials. Any modifications, alteration or additions to the lawn or landscaping of the Lots must be approved in writing by the HOA. An Owner may make improvements and alterations within the dwelling on his Lot, provided that in the case of alterations to a Unit or Townhome, such alterations do not interfere with the structural integrity of the dwelling building or other structure within which such Unit or Townhome is connected or otherwise is a part thereof. No Owner shall impair any easement without first obtaining the written consent of the HOA and their Mortgagees for whose benefit such easement exists.

### **Section 9.03 Lighting:**

The design, type, location, size, intensity, and color of all exterior lights (including both those mounted as part of the original design or otherwise in place at the time of the conveyance of any Lot (including any Condominium Units) to an Owner and those mounted with the consent of the Board of Directors) shall be subject to prior written approval of the Board of Directors.

### **Section 9.04 Residential Use Only Purposes:**

All Lots (including any Condominium Units) shall be, and the same hereby are, restricted exclusively to single family residential use, and the occupancy thereof shall be subject to such restrictions as the Board of Directors may establish pursuant to the Rules and Regulations of the HOA. The Board of Directors is given full and complete judgment in its sole discretion, as to whether a proposed use is in violation of the restrictions set forth herein. In no event shall the HOA or any member of the Board have any liability for any judgment or decision made reasonably and in good faith under this paragraph.

### **Section 9.05 Signs:**

Except as may be required by legal proceedings or other local, state, or federal law, no "For Sale" or "For Rent" signs of any kind shall be maintained or permitted on any portion of the Development, including any such signage located in the window of a dwelling unit, without the express written permission of the Board of Directors. Notwithstanding the foregoing, the provisions of this Section shall not apply to any notice or other advertisement posted on any community bulletin board by an Owner or his licensed real estate broker or agent, or to a "For Sale" sign posted by a Mortgagee who becomes the Owner as purchaser at a Foreclosure Sale conducted with respect to a Mortgage, or as a transferee pursuant to any proceeding in lieu thereof, subject to reasonable rules and regulations established by the Board of Directors with respect to such "For Sale" or other signs.

### **Section 9.06 Pets:**

No animals or birds, or any kind of pet, shall be kept or maintained on any portion of the Development, except that, notwithstanding, Owners may keep and maintain no more than two (2) domestic pets. All such animals shall be further subject to such reasonable Rules and Regulations as the HOA may impose.

### **Section 9.07 Use of Common Elements:**

The use and enjoyment of the Common Elements by the Owners and their Occupants shall be subject to such reasonable Rules and Regulations as may be made and amended from time to time in accordance herewith. This Section is for the mutual benefit of all Owners and Occupants and is necessary to the protection thereof.

### **Section 9.08 Antennas:**

No antenna or other device for the transmission or reception of television signals, radio signals, or any form of electromagnetic wave or radiation shall be erected, used, or maintained outdoors on any portion of the Development, whether attached to a building or structure or otherwise, without the express written permission of the Board of Directors; provided, however, that the HOA shall have the right to erect, construct and maintain such devices. Notwithstanding the foregoing, any such device which may not be prohibited by the HOA pursuant to the Federal Communications Act, or other similar applicable statutory provision, shall be deemed herewith approved and permitted.

### **Section 9.09 Motor Vehicles, Trailers, Boats, etc:**

Automobiles shall be operated and parked only upon those portions of the Common Elements designated for such purpose on the Plat and Plans or otherwise designated by the Board of Directors. Other motor vehicles,

including, without limitation, mobile homes, motor homes, truck campers, trailers of any kind, and boats, shall not be kept, placed, stored, or parked on any portion of the Development, with the exception of motor vehicles temporarily parked on the Development for purposes of repairs of portions of the Development, or deliveries. The provisions of this paragraph shall not be applicable to any such motor vehicle campers, boats, etc. which are parked at all times within a garage and operated or removed from within such garage solely to be moved from the Development for utilization of such motor vehicles, etc. or returned from without such Development to such garage.

### ***Section 9.10***      **Nuisances:**

No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Development, except in containers specifically designated for such purpose, nor shall any odors be permitted, so as to render any portion of the Development unsanitary, unsightly, offensive or detrimental to persons using or occupying other portions of the Development. No nuisance shall be permitted to exist or operate upon any portion of the Development so as to be offensive or detrimental to persons using or occupying other portions of the Development. 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, shall be located, used, or placed on the Development.

### ***Section 9.11***      **Prohibited Activities:**

Noxious or offensive activities shall not be carried on upon any portion of the Development or within any dwelling or other building located thereupon, or in any part of the Common Elements. Each Owner and Occupant shall refrain from any act or use of their Lot or the Common Elements which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the other Owners and Occupants, or which would result in the cancellation of insurance on any portion of the Common Elements, or which would be in violation of any law or governmental code or regulation. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken on any portion of the Development.

### ***Section 9.12***      **Governmental Regulations:**

All governmental building codes, health regulations, zoning restrictions, and the like applicable to the Development shall be observed. In the event of any conflict between any provision of any such governmental code, regulations, or restriction and any provision of this RMD, the more restrictive provision shall apply.

### ***Section 9.13***      **Exterior Appearance:**

To provide a neat, attractive and harmonious appearance throughout the Development, no awnings, shades, screens or other items shall be attached to, hung or used on the exterior of any window or door of any building without the prior written consent of the Board of Directors, or an architectural committee appointed by the Board of Directors. Further, no foil or other reflective material shall be used on any windows, for sunscreens, blinds, shades or for any other similar purpose.

### ***Section 9.14***      **Sale, Leasing, Timesharing:**

The following provisions shall apply to sales or leases of Lots (including any Condominium Unit)

- (a) The right of any Owner, to sell, transfer, convey, mortgage, encumber, or pledge the Lot owned by such Owner shall not be subject to any right of first refusal or any similar restriction in favor of the HOA or Declarant.
- (b) No Owner may lease his Lot, in whole or in part, for transient or hotel purposes. The HOA may establish Rules and Regulations regarding the leasing of the Lots, including without limitation imposing a minimum lease term for any lease, provided no such Rule or Regulation shall reduce the length of any lease term entered into prior thereto. Any Lease shall be subject in all respects to the provisions of this RMD and the Instruments and failure of the Lessee to comply with the terms of such shall be deemed a default under the Lease, and all Leases shall so provide. In the event of non compliance by any tenant or other Occupant of a Lot with the terms of this RMD or the Instruments, the Board of Directors shall have the right to require the Owner or Lessee thereof terminate such lease for such default, or cause the Owner to effect compliance and additionally, to levy a charge or fine against the Owner of such Lot after notice and an opportunity to be heard pursuant to G.S. 47F-3-107.1 the terms and provisions of which are incorporated herein by reference as if fully set out herein, for such non-compliance.
- (c) Time sharing or timeshares as defined in the North Carolina Time Share Act (G.S. 93-A-39 *et. seq.*) is expressly prohibited.
- (d) No owner shall lease, rent or otherwise permit the occupancy of his Lot, in whole or in part, for any use or purpose that would be subject to the North Carolina Vacation Rental Act (G.S. 42A *et. seq.*).

## ARTICLE X GENERAL PROVISIONS

### ***Section 10.01***    **Parties Bound:**

All Persons owning or occupying any Lot (including any Villa, Townhome, or Unit), or otherwise having or acquiring any interest in any portion of the Development including the Condominium or any Common Areas shall be bound by the provisions of this RMD.

### ***Section 10.02***    **Duration:**

The provisions of this RMD shall run with and bind the land, shall be binding upon and inure to the benefit of all Owners and Mortgagees, their heirs, executors, legal representatives, occupants, successors, and assigns, and shall be and remain in effect for a period of twenty (20) years, from the date this RMD is recorded, after which time this RMD shall be automatically extended perpetually for successive periods of ten (10) years each, to the extent permitted by North Carolina law.

### ***Section 10.03***    **Amendment of RMD:**

This RMD may be amended by the affirmative vote of Owners having at least sixty-seven percent (67%) of the total allocated HOA votes. Notwithstanding anything to the contrary, so long as the same shall not (a) adversely affect the title to any Lot, or (b) materially alter or change any Owner's right to the use and enjoyment of his Lot or the Common Elements as set forth in this RMD, each Owner and Mortgagee agrees that, if requested to do so by the HOA, such Owner and Mortgagee shall consent to the amendment of this RMD and/or the Instruments, (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with, or remove any conflict or inconsistency with, the provisions of any applicable governmental statute, rule, or regulation, including without limitation, the provisions of a judicial determination which shall be in conflict therewith, (ii) if such amendment is required by the governmental statutes, laws, rules or regulations applicable to or promulgated by a governmental lender or purchaser of mortgage loans, or (iii) if such amendment is necessary to obtain permanent financing from a Mortgagee relative to any Lot. Amendments to this RMD or the other Instruments may be proposed by the Board of Directors, or by petition signed by Owners having at least thirty percent (30%) of the total allocated HOA votes. Agreement of the required percentage of Owners to any amendment of the Instruments shall be evidenced by their execution of the amendment. Any such amendment of the Instruments, including this RMD, shall become effective only when recorded or at such later date as may be specified in the amendment itself. The written consent of any Mortgagee required with respect to such amendment shall also be recorded in any such amendment.

Notwithstanding anything herein to the contrary, except for an amendment limited exclusively to removing the Master Association status and authority of the HOA from serving in such role on behalf of the COA, no addition, deletion, or amendment hereto, which adversely and exclusively affects the Condominium portion of the Development only (as opposed to all Lot Owners within the Development) shall be made without the approval of sixty seven percent (67%) of the Condominium Unit Owners. This provision is intended to protect the Condominium Unit Owners from discrimination by non condominium property owners.

### ***Section 10.04***    **Rights of Mortgagees and Owners:**

In addition to the rights of Mortgagees elsewhere provided, each Mortgagee and each Owner shall: (a) be entitled to written notice from the HOA of any default by an Owner in the performance of his obligations under this RMD or the Instruments which is delinquent for a period of more than thirty (30) days specifically including any delinquency in payment of any Assessment; (b) be entitled to receive notice of and to designate a representative to attend and observe all meetings of Owners, but not meetings of the Board of Directors; (c) be entitled to receive written notice of any condemnation loss or any casualty loss which affects a material portion of the Development or any Lot on which a Mortgagee holds a Mortgage; (d) be entitled to receive thirty (30) days prior written notice of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the HOA; (e) be entitled to receive written notice of any proposed action which would require the consent of a specified percentage of the Mortgagees; and (f) be furnished copies of annual financial reports within one hundred twenty (120) days after the end of the HOA's fiscal year; provided, however, that such Owner or Mortgagee shall first file with the HOA a written request (setting forth the name of such Owner or Mortgagee and the designated Lot with respect to which such request is made) that notices of default, notices of meetings and copies of financial reports be sent to a named agent or representative of the Mortgagee or Owner at an address stated in such notice. Further, each Mortgagee and Owner shall, upon request, be entitled to inspect the books, records and financial statement of the HOA (including the Instruments and other documents) during normal business hours. Any First Mortgagee shall, upon written request, be entitled to an audited financial statement of the HOA for the immediately preceding fiscal year, free of charge to the First Mortgagee so requesting it.

### ***Section 10.05***    **Rights of Third Parties:**

This RMD shall be recorded for the benefit of the HOA, the Owners, and their Mortgagees as herein provided, and by such recording, no adjoining property owner or other person shall have any right, title or interest whatsoever in the Development or in the operation or continuation thereof, or in the enforcement of any of the provisions hereof, and, subject to the rights of such Mortgagees as are herein provided, the HOA and the Owners shall have the right to cancel, extend, modify, amend or otherwise change the provisions of this RMD without the consent, permission or approval of any adjoining property owner or third person.



### ***Section 10.06    Enforcement:***

- (a) **Compliance:** Each Owner and Occupant shall comply strictly with the provisions of this RMD and the Instruments. In the event of a violation or breach, or threatened violation or breach, of any of the same, the HOA or, in a proper case, any aggrieved Owner(s), jointly and severally, shall have the right to proceed at law or in equity to compel compliance therewith, or to prevent a threatened violation or breach thereof.
- (b) **Self Help After Due Process:** In addition to all other remedies, the HOA, or a duly authorized agent thereof, shall have the right to enter upon any portion of the Common Elements where a violation exists and, at the expense of the violating Owner, abate or remove any structure, thing or condition that may be or exist contrary to the intent and meaning hereof or of the Instruments, if after notice and an opportunity to be heard given in accordance with the provisions of G.S. 47F-3-107.1 it shall not have been corrected by such Owner.
- (c) **Non Liability for Self Help & Attorneys' Fees:** Neither the HOA, nor its agents, shall be deemed guilty or liable for any manner of trespass for such entry, abatement or removal. Should the HOA employ legal counsel to enforce any of its rights or remedies of the HOA, all costs incurred in such enforcement if successful, including a reasonable fee for counsel shall be paid by the violating Owner.
- (d) **Injunctions Authorized:** Inasmuch as the enforcement of the provisions hereof and of the Instruments are essential for the protection of present and future Owners and Occupants, it is hereby declared that any breach thereof cannot be adequately compensated by recovery of damages alone, and that the HOA or, in any proper case, any aggrieved Owner(s), in addition to all other remedies, may require and shall be entitled to remedy by injunction to restrain or enjoin any such violation or breach, or threatened violation or breach.
- (e) **Non Waiver:** No delay, failure or omission on the part of the HOA, or any aggrieved Owner(s) in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to do so thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement.
- (f) **Non Accrual of Action:** No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the HOA or its Officers or Directors for, or on account of, any failure to bring any action on account of any violation or breach, or threatened violation or breach, of this RMD or of the Instruments, however long continued, or for the imposing of provisions which may be unenforceable.

### ***Section 10.07    Other Provisions:***

- (a) **Severability:** Any and all portion(s) of any provision(s) of this RMD and the Instruments which are prohibited, unenforceable, or otherwise not authorized in any jurisdiction shall, as to such portion(s) and jurisdiction(s) only, be deemed ineffective to the extent of such prohibition or unenforceability only, without invalidating or affecting the continuing validity and enforceability of the remaining portion(s) of any such provision(s).
- (b) **Captions:** The titles/captions/headings of any and all portions of this RMD and the Instruments are intended for convenience of reference purposes only, and shall not in any event whatsoever be deemed to affect the meaning or interpretation of this RMD or the Instruments.
- (c) **Law Controlling:** This RMD & the Instruments shall be construed and governed by North Carolina law.
- (d) **Usage and Interpretation of Terms:** The words or terms used in this RMD or the Instruments which are used in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter, and vice versa; words used in the singular number includes the plural, and the singular; and the word "Person" without limiting the specific definition thereof provided herein, includes a corporation or other entity as well as a natural person.
- (e) **Bold Italicized Text:** The bold italicized text within this RMD represents relevant portions of the NCPCA which have been inserted into this RMD for convenience purposes only (and in some cases slightly modified for easier interpretation), to aid the reader in referring to and understanding certain applicable portions of the NCPCA as they pertain to this RMD. No bold italicized text herein shall be relied upon in lieu of obtaining and relying upon the actual and most recent version of the relevant NCPCA statute which shall control and prevail notwithstanding any conflict therewith.
- (f) **Statutory References:** All references herein to any statutory provision(s) shall be construed to include any subsequent amendments thereto or replacements thereof as may be validly enacted from time to time by the North Carolina General Assembly. All such statutes referred to herein shall be incorporated herein by specific reference thereto.

**Section 10.08 Interpretation:**

- (a) **Liberal Construction:** The provisions hereof shall be liberally interpreted, and if necessary, they shall be so extended or enlarged by implication as to make them fully effective. In all cases, the terms, conditions, and provisions set forth within or provided for in this RMD shall be construed and given that interpretation or construction which, in the opinion of the HOA Board of Directors, will best affect the intent of the general plan of the Planned Community Development.
- (b) **Effective Date:** The effective date of this RMD shall be the date it is filed of record in the office of the Transylvania County Registry or any later date specified herein after the date of such filing.
- (c) **Priority of Instruments:** In the event of any conflicts or inconsistencies arising between the Acts, this RMD, the Instruments defined herein, the RCD, or the Instruments defined therein: 1) the NCPA, this RMD, the Articles, the HOA Bylaws, the HOA Rules & Regulations, and finally any other Instruments defined within the RMD shall control and prevail in that order of priority in all matters pertaining to the Development as a Planned Community or otherwise in any matters not solely related to the condominium form of property ownership or separate management thereof with respect to which the NCCA, the RCD, the COA Charter, the COA Bylaws, the COA Rules & Regulations, and finally any other Instruments defined within the RCD shall control and prevail in that descending order of priority with respect to all such condominium related matters.

**Section 10.09 List of Exhibits:**

- (a) Exhibit "RMD-A": The "Development Property"
- (b) Exhibit "RMD-B": The "Condominium Property"
- (c) Exhibit "RMD-C": The "Allocated Interests"
- (d) Exhibit "RMD-D": The "Restated Condominium Declaration"

IN WITNESS WHEREOF, pursuant to the authority cited hereinabove and as otherwise authorized by law, the undersigned, for the purposes more particularly described hereinabove, including without limitation to amend and fully restate the covenants, conditions, and restrictions affecting Bedford Place, and each being of the age of legal majority or otherwise being a duly authorized representative acting of behalf of any legal entity executing this RMD, has read and by setting their hands and legal SEALS hereunto, do hereby adopt and intend to be bound by this RMD, together with the Instruments defined herein, as of the day and year first stated hereinabove.

SEE ATTACHED SIGNATURE PAGES FOLLOWING ALL EXHIBITS

**EXHIBIT "RMD-A"**

to

**RESTATED MASTER DECLARATION**

of

Covenants, Conditions, and Restrictions

for

**BEDFORD PLACE**

A Mixed Property Planned Community Development

Comprised of

Twenty Seven (27) Villas, Fifteen (15) Townhomes, and a Four (4) Unit Condominium

Drafted: July 1st, 2014**THE DEVELOPMENT PROPERTY**

BEGINNING at an existing nail, said existing nail being located in the center line of the right of way of Osborne Road (S.R. 1556), said Beginning Point located South 84° 34' 19" East 1929.07 feet from N.C.G.S. Monument "STRAUS", bearing coordinates N=566807.559 feet, E=889232.207 feet, NAD 83 scale factor=0.9998726, Elevation (NGVD 29)=2164.63 feet AND RUNNING THENCE FROM SAID POINT AND PLACE OF BEGINNING along and with the center line of the right of way of Osborne Road the following courses and distances: North 82° 50' 33" East 58.27 feet, North 79° 31' 39" East 54.38 feet, North 78° 04' 21" East 75.80 feet, North 76° 56' 54" East 74.99 feet and North 78° 36' 49" East 77.49 feet to an existing railroad spike; thence leaving the center line of the right of way of Osborne Road, along and with the western boundary of the property of (now or formerly) Weaver as described in Deed Book 402, Page 452; South 01° 02' 47" East 210.01 feet to an axle control corner, having a bench mark of 2,209.06 feet at the top of said axle; thence along and with the southern or southwestern boundary of the property of (now or formerly) Weaver, South 69° 01' 24" East 139.66 feet to an axle; thence continuing along and with the southern or southwestern boundary of the property of (now or formerly) Weaver, South 68° 04' 32" East 56.82 feet to an existing iron pin; thence leaving the boundary of the property of (now or formerly) Weaver and running along and with the western or northwestern boundary of the property of (now or formerly) Osborne as described in Deed Book 141, Page 34, South 36° 22' 17" West 467.81 feet to an existing iron pin, said existing iron pin being a common corner with the property of (now or formerly) Sitton as described in Deed Book 179, Page 627; thence along and with Northern or northeastern boundary of the property of (now or formerly) Sitton North 60° 26' 17" West 109.95 feet to an existing iron pin; thence along and with the western or northwestern boundary of the property of Sitton, South 20° 16' 39" West 247.32 feet to an existing iron pin; thence along and with the northern or northeastern boundary of the property of (now or formerly) Dobbins as described in Deed Book 442, Page 440, North 65° 23' 08" West 493.62 feet to an existing iron pin; said existing iron pin being the northeasternmost corner of the property of (now or formerly) Eldridge as described in Deed Book 370, Page 67; thence along and with the northern boundary of the property of (now or formerly) Eldridge, passing an existing concrete monument at 11.28 feet, North 65° 22' 58" West 119.35 feet to an existing concrete monument, said existing concrete monument being the southern or southeasternmost corner of the property of (now or formerly) Smith as described in Deed Book 386, Page 239; along and with the eastern or southeastern boundary of the property of (now or formerly) Smith, North 23° 55' 45" East 299.45 feet to an existing concrete monument; thence along and with the southern or southwestern boundary of the property of (now or formerly) Gardner as described in Deed Book 322, Page 652, South 62° 07' 18" East 90.08 feet to an axle with a bench mark at the top of said axle bearing 2153.09 feet; thence along and with the eastern or southeastern boundary of the property of (now or formerly) Vaughn as described in Deed Book 454, Page 223, Transylvania County Registry, North 29° 18' 06" East 196.89 feet to an existing iron pin, said existing iron pin being the southwesternmost corner of the property of (now or formerly) Fisher as described in Deed Book 19, Page 729; thence along and with the southern boundary of the property of (now or formerly) Fisher, South 76° 45' 44" East 154.27 feet to an existing iron pin in PVC; thence along and with the eastern boundary of the property (now or formerly) Fisher, North 25° 38' 33" East 85.75 feet to an existing iron pin and North 08° 02' 05" East 70.69 feet to the point and place of BEGINNING and being a tract or parcel of land containing 10.2 acres more or less as shown on plat of survey thereof entitled "Map of Boundary and Topography for Glade Holdings, Inc." prepared by Associated Land Surveyors, dated June 6, 2001.

**EXHIBIT "RMD-B"**

to

**RESTATED MASTER DECLARATION**

of

**Covenants, Conditions, and Restrictions**

for

**BEDFORD PLACE**

**A Mixed Property Planned Community Development**

**Comprised of**

**Twenty Seven (27) Villas, Fifteen (15) Townhomes, and a Four (4) Unit Condominium**

**Drafted: July 1st, 2014**

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**THE CONDOMINIUM PROPERTY**

**BEING all that parcel of property designated "Condominium Parcel" as surveyed by Michael A. Pfoutz Sr., PLS and shown on a plat thereof recorded on Plat File 16, Slide 261, Transylvania County Registry dated November 24<sup>th</sup>, 2014.**

**EXHIBIT "RMD-C"**  
 to  
**RESTATED MASTER DECLARATION**  
 of  
**Covenants, Conditions, and Restrictions**  
 for  
**BEDFORD PLACE**  
 A Mixed Property Planned Community Development  
 Comprised of  
 Twenty Seven (27) Villas, Fifteen (15) Townhomes, and a Four (4) Unit Condominium  
 Drafted: July 1st, 2014

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**THE ALLOCATED INTERESTS OF LOTS WITHIN THE DEVELOPMENT**

Identifiable Lots as Identified within the Plats and Plans or otherwise described within the Declaration	Total Number of Votes in the HOA Allocated to each Identified Class of Lots or each Lot	Allocated Interest of each Identified Class of Lots or each Lot in the Development Common Elements, and the Development Common Expenses.
<b>CONDOMINIUM UNITS (4)</b>	<b>6</b>	<b>6%</b>
C-1	1.5	1.5%
C-2	1.5	1.5%
C-3	1.5	1.5%
C-4	1.5	1.5%
<b>TOWNHOMES (15)</b>	<b>27.00</b>	<b>27%</b>
5	1.8	1.8%
6	1.8	1.8%
7	1.8	1.8%
8	1.8	1.8%
9	1.8	1.8%
10	1.8	1.8%
11	1.8	1.8%
12	1.8	1.8%
13	1.8	1.8%
14	1.8	1.8%
15	1.8	1.8%
16	1.8	1.8%
17	1.8	1.8%
18	1.8	1.8%
19	1.8	1.8%
<b>VILLAS (27)</b>	<b>67</b>	<b>67%</b>
1	2.48148	2.48148%
2	2.48148	2.48148%
3	2.48148	2.48148%
4	2.48148	2.48148%
5	2.48148	2.48148%
6	2.48148	2.48148%

7	2.48148	2.48148%
8	2.48148	2.48148%
9	2.48148	2.48148%
10	2.48148	2.48148%
11	2.48148	2.48148%
12	2.48148	2.48148%
13	2.48148	2.48148%
14	2.48148	2.48148%
15	2.48148	2.48148%
16	2.48148	2.48148%
17	2.48148	2.48148%
18	2.48148	2.48148%
19	2.48148	2.48148%
20	2.48148	2.48148%
21	2.48148	2.48148%
22	2.48148	2.48148%
23	2.48148	2.48148%
24	2.48148	2.48148%
25	2.48148	2.48148%
26	2.48148	2.48148%
27	2.48148	2.48148%
<b>22 TOTAL LOTS</b>	<b>100%</b>	<b>100%</b>



EXHIBIT "RMD-D"  
to  
RESTATED MASTER DECLARATION  
of  
BEDFORD PLACE  
A Mixed Property Planned Community Development  
Comprised of Villas, Townhomes, and a Condominium

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**RESTATED  
CONDOMINIUM DECLARATION**

of  
Covenants, Conditions & Restrictions  
for  
**BEDFORD PLACE Condominiums**

A separately administered but contiguous part of the larger  
Mixed Property Planned Community Development  
of  
BEDFORD PLACE

This Instrument Prepared By:  
The Neumann Law Firm, PLLC  
9 Park Place West, Suite 102, Brevard, NC 28712

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THIS RESTATED CONDOMINIUM DECLARATION (the "RCD") for Bedford Place Condominiums (the "Condominium") which exists within and as part of that larger single Mixed Property Planned Community Development of Bedford Place (the "Development") is hereby made and entered into the day and year first set forth hereinabove, by and between the undersigned Condominium Unit Owners (the "Owners").

WITNESSETH:

WHEREAS, the recitals set forth within the Restated Master Declaration (the "RMD") to which this RCD is attached and incorporated therein by reference are hereby incorporated into this RCD by reference thereto as if fully set out in their entirety herein, and are adopted and confirmed by the undersigned as to their content; and

WHEREAS, this RCD is intended to constitute a separate, distinct, and self-contained legal instrument for the purpose of amending, restating and establishing those additional covenants, conditions, and restrictions to which the Bedford Place Condominiums only shall be subject.

NOW THEREFORE, pursuant to G.S. 47C-2-117 of the North Carolina Condominium Act (the "NCCA"), and in exchange for the mutual covenants and promises made herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned for themselves and for their occupants, mortgagees, heirs, executors, administrators, successors, and assigns, hereby make and agree to be bound by the covenants, conditions, and restrictions set forth within this RCD including any and all Instruments or Exhibits incorporated herein by reference, as the same may be validly adopted or amended from time to time hereafter.

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## ARTICLE I. DEFINITIONS

### ***Section 1.01 Intent & Application of Definitions:***

Each term defined in this Article, and as used within this RCD or any other Instruments (as that term is defined herein below) whether capitalized or not, shall be deemed to have the definition set forth immediately thereafter, unless a contrary definition for such term is otherwise clearly established by: (i) any applicable law including but not limited to the NCCA, (ii) an express statement within any instrument that such term as used therein shall have a contrary definition; or (iii) the context in which any such term is used where the intent for such term to contain a contrary definition is clear and unambiguous.

### ***Section 1.02 Terms Separately Defined:***

“Allocated Interest” means the undivided interest in the Condominium Common Elements, Condominium Common Expense Liability, and votes in the COA allocated to each Unit.

“Association” means either the COA, or the HOA whenever it acts in the COA’s capacity as its Master Association.

“Board” or “Board of Directors” means either the executive board of the COA, or the executive board of the HOA whenever it acts in the capacity of the COA’s Master Association.

“Bylaws” means the COA’s bylaws as validly amended from time to time.

“Charter” means the Charter of the COA, as validly amended from time to time.

“COA” means the Bedford Place Condominium Unit Owners’ Association, a North Carolina unincorporated association formed pursuant to G.S. 47C-3-101 to separately manage and administer the Condominium’s affairs in accordance with the NCCA and the RCD.

“Common Elements” means all portions of “Condominium Property” except the Units.

“Common Expenses” means expenditures made by, or financial liabilities of the COA, together with any allocations to reserves.

“Common Expense Liability” means the liability for Condominium “Common Expenses” allocated to each Unit as provided by this RCD, the NCCA, or otherwise by law.

“Condominium” means the Bedford Place Condominiums consisting of the Condominium Property, and existing as a separately administered but contiguous part of the larger Planned Community Development of Bedford Place, portions of which Condominium Property are designated for separate ownership (Units) the remainder being designated for common ownership solely by the owners of those portions (Unit Owners).

“Condominium Property” means all of that real property more particularly described within Exhibit “RMD-B” to the RMD attached thereto and incorporated therein by reference, together with the Units constructed thereupon, and all rights, easements, and obligations appurtenant thereto, as more particularly described within the RCD, and being the same real property described within Exhibit “RCD-A”, attached hereto and incorporated herein by reference, as well as property depicted in Exhibit “RCD-C” and in Plat File 16, Slides 260 through 261.

“Condominium Unit” or “Unit” means a physical portion of the Condominium Property designated by its Unit Boundaries for the separate ownership or occupancy thereof by a Unit Owner.

“Condominium Unit Boundaries” or “Unit Boundaries” means the boundaries for each Unit, both as to its vertical and horizontal planes, as established and shown by the Plats, or otherwise to the extent not inconsistent therewith means those boundaries established by operation of law pursuant to G.S. 47C-2-102 of the NCCA, or otherwise by this RCD.

“Condominium Unit Owner” or “Unit Owner” or “Owner” means the person(s) owning a Condominium Unit, but does not include a person having an interest in a Unit solely as security for an obligation.

“Declarant” means Bedford Place, LLC, a North Carolina LLC.

“Declaration” means this RCD.

“Development” means the entire Mixed Property Development of Bedford Place consisting of the Development Property, and existing as one Planned Community within which the Condominium exists therein as a separately administered but contiguous part thereof.

"Development Property" means all of that real property more particularly described within Exhibit "RMD-A" to the RMD attached thereto and incorporated therein by reference, together with all rights, easements, and obligations appurtenant thereto.

"Director" means either a member of the COA Board, or a member of the HOA Board whenever it acts in the capacity of the COA's Master Association.

"First Mortgagee" means the holder of a first in priority mortgage on any Unit.

"HOA" means the Bedford Place Homeowners' Association, Inc., a North Carolina nonprofit corporation, formed and serving pursuant to G.S. 47F-3-101 as the lot owners' association to manage and administer the entire Mixed Property Development of Bedford Place as a single Planned Community in accordance with the NCPA and the RMD; and also serving in addition thereto pursuant to G.S. 47C-2-120 (Master Associations) as the COA's Master Association to separately manage and administer the Condominium in the capacity of its unit owners' association as defined in G.S. 47C-3-101 in accordance with the NCCA, the RCD, and to the extent not inconsistent therewith, the RMD.

"Instruments" means without limitation all of the following: This RCD, the Charter, the Bylaws, the Rules and Regulations, the Plats, the Plans, any exhibits or other documents attached to or incorporated within any of the foregoing as all the same are validly adopted or amended from time to time. All of the Instruments are and shall be incorporated herein by reference.

"Lease" means any lease, use, tenancy, sublease, rental contract, or other occupancy agreement for a Unit whether oral or written.

"Limited Common Elements" means those portions of the Condominium "Common Elements" allocated by this RCD or the NCCA for the exclusive use thereof by one or more but less than all the Units.

"Majority" means greater than fifty percent (50%) in any context, unless a different percentage is expressly required by any applicable Instrument or by law.

"Mixed Property" means the mixed manner in which various different legal forms of property simultaneously exist within and as a part of the larger Development of Bedford Place.

"NCCA" means the North Carolina Condominium Act as codified in Chapter 47C of the North Carolina General Statutes, as amended from time to time.

"NCPA" means the North Carolina Planned Community Act as codified in Chapter 47F of the North Carolina General Statutes, as amended from time to time.

"Occupant" means any Person(s), including, without limitation, any guest, customer, invitee, tenant, lessee or licensee of any Owner, occupying, using or otherwise visiting a Unit.

"Officer" means either an officer of the COA, or an officer of the HOA whenever it acts in the capacity of the COA's Master Association.

"Owner" means a "Condominium Unit Owner".

"Person" means without limitation a natural person, corporation, trust, estate, partnership, association, joint venture, government, or any other legally recognized entity.

"Planned Community" pursuant to the NCPA means real estate with respect to which any person, by virtue of that person's ownership of a lot, is expressly obligated by a declaration to pay real property taxes, insurance premiums, or other expenses to maintain, improve, or benefit other lots or other real estate described in the declaration. For purposes of the NCPA, neither a cooperative nor a Condominium is a Planned Community, but real estate comprising a Condominium or cooperative may be part of a Planned Community. [G.S. 47F-1-103(23)].

"Plats and Plans" mean those Plats and/or Plans of the Development and/or Condominium validly prepared and recorded by the Declarant or the HOA pursuant to the Acts or other state law in the Transylvania County Registry, including but not limited to those already recorded in Plat File 10, Slides 155 through 157, Plat File 10, Slides 501 and 504, Plat File 16, Slides 260 through 261 thereof.

"RCD" means this Restated Declaration of Condominium, together with the Instruments defined herein, as all the same may be validly amended from time to time.

"RMD" means the Restated Master Declaration of Covenants, Conditions, and Restrictions for Bedford Place a Mixed Property Planned Community Development Comprised of Villas, Townhomes, and a Condominium, together with the Instruments defined therein, as all the same may be validly amended from time to time, and to which this RCD is attached and incorporated therein as Exhibit "RMD-D" thereto.

"Rules and Regulations" or "RRs" means the rules and regulations of the Condominium validly adopted, promulgated, or amended by the COA from time to time.

"Undersigned" means only the Condominium Unit Owners who have executed this RCD, and does not include any non-condominium property owners the signature pages of which may follow this RCD or its Exhibits.

"Unit" means a "Condominium Unit" as defined above.

"Unit Boundaries" means "Condominium Unit Boundaries" as defined above.

"Unit Owner" means "Condominium Unit Owner" as defined above.

## ARTICLE II. SUBMISSION OF CONDOMINIUM

The Condominium, the Condominium Units, and every interest of any Person(s) whatsoever owned or otherwise existing therein are intended to be, and shall be: owned, held, transferred, sold, conveyed, disposed of, acquired, inherited, assigned, used, leased, occupied, mortgaged, encumbered, and/or deeded into trust, subject to the terms, conditions, and provisions of the NCCA, this RCD, and the Instruments, as the same may be amended from time to time hereafter.

The foregoing submissions and obligations are made in addition to any other submissions or obligations otherwise imposed upon each Unit by virtue of its being part of the Planned Community Development of Bedford Place and treated for purposes of the NCPA, the RMD, and the Instruments separately defined therein as a Lot as more particularly described within the RMD.

## ARTICLE III. DESCRIPTION OF CONDOMINIUM

### ***Section 3.01 Name & Location:***

The Condominium governed by this RCD is named: "Bedford Place Condominiums", and is located within the larger Bedford Place Development in Transylvania County, North Carolina.

### ***Section 3.02 Description of Condominium:***

- (a) The Condominium exists as a separately managed but contiguous part of the larger Mixed Property Planned Community Development of Bedford Place.
- (b) The Condominium consists of all the Condominium Property as more particularly described within Exhibit "RCD-A" attached hereto and incorporated herein by reference, together with all rights and easements appurtenant thereto.
- (c) Portions of the Condominium are designated by Unit Boundaries for the separate ownership thereof as individual Units.
- (d) All portions of the Condominium not specifically designated as Units, are deemed by operation of law to be exclusively & jointly owned in common by all the Unit Owners.
- (e) There are Four (4) Condominium Units designated for separate ownership within the Condominium as more particularly described herein below, and no additional Condominium Units shall be constructed within or added to the Condominium unless otherwise authorized by the NCCA.

### ***Section 3.03 Condominium Units, Allocated Interests, & Owner Rights:***

- (a) The Four (4) Condominium Units designated for separate ownership thereof are contained in the two (2), two-story building(s) located on the Condominium Property.
- (b) The building and the Units within are more fully described and depicted by the Plats and Plans thereof including but not limited to those entitled the "Bedford Place Condominiums" recorded in Plat File 10, Slides 155 through 157, Plat File 10, Slides 501 and 504 and further in Plat File 16, Slides 260 through 261 alongside a verified statement of an architect certifying that such additional plats and plans recorded in Deed Book 709, Page 676-681 fully and accurately depict the layout, location, ceiling and floor elevations, unit numbers and dimensions of the units, as built, in the Transylvania County Registry. Each individual Unit is separately identified therein by its alphanumeric character being either C-1, C-2, C-3, or C-4, and consists of the area within its respective Unit Boundaries as more particularly described herein below.
- (c) Subject to any additional rights or limitations imposed by the NCCA, this RCD, or the Instruments, each Unit shall have the following appurtenant rights, interests, and obligations:
  - (i) A non-exclusive right of each Owner to use and enjoy the Common Elements;
  - (ii) The "Allocated Interest" of each Unit as that term is defined herein, which is allocated between and among the Units as originally established by Declarant in proportion to the approximate percentage of the fair market value of each Unit, including all existing or potential improvements thereto, bears in relation to the aggregate fair market value of all Units within the Condominium, including all existing or potential improvements thereto, as the same is more particularly described within Exhibit "RCD-B" attached hereto and incorporated herein by reference;
  - (iii) The automatic and mandatory membership in the COA of every Owner of any fee interest in any Unit, which membership shall continue indefinitely without cessation during the period of any such ownership; and

(iv) The additional automatic and mandatory membership in the HOA of every Owner of any fee interest in any Unit (each such Unit being deemed a Lot within the larger Development of Bedford Place as more particularly described within the RMD), which membership shall continue indefinitely without cessation during the period of any such ownership.

- (d) Each Unit shall constitute for all purposes a separate parcel of real property, which may be owned in fee simple, and subject to the applicable provisions of the Acts, this RCD, and the RMD, may be conveyed and encumbered like any other real property. The rights, interests, and obligations appurtenant to each Unit shall not be separated from any Unit to which it appertains, and shall be deemed to be conveyed or encumbered with such Unit even though such interest is not expressly mentioned or described in any purported conveyance thereof or by any other instrument.

### ***Section 3.04     Unit Boundaries:***

The horizontal and/or vertical boundaries of each Unit except as otherwise expressly provided herein or shown upon the Plats identified hereinabove, are defined by operation of law pursuant to G.S. 47C-2-102 of the NCCA, the terms and provisions of which are incorporated into this RCD by reference.

### ***Section 3.05     Common Elements:***

All portions of the Condominium Property other than specifically designated Units are Common Elements, provided that some Common Elements may be deemed Limited Common Elements as further described herein below. The Common Elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the Common Elements made without the Unit(s) to which such interest is allocated is void.

### ***Section 3.06     Limited Common Elements:***

Any portions of the Common Elements which are: (i) labeled as a Limited Common Element within the Plats, (ii) assigned as such by this RCD, or (iii) otherwise defined as such by operation of law (including but not limited to G.S. 47C-2-102(2) or (4) of the NCCA); for the exclusive use of one or more but fewer than all of the Units shall be a Limited Common Element. Limited Common Elements are not separate and apart from the Common Elements in general, but are limited only with respect to the exclusive use thereof by the Unit(s) to which they are assigned. The following shall be Limited Common Elements:

- (a) Any driveway, parking area, walkway, entrance, foyer, lobby, hallway, steps, elevator, stairway, or means of access to the door of any Unit, together with any enclosure therefore, which is appurtenant to or otherwise designed to serve, one or more, but not all of the Units shall be a Limited Common Element assigned to the Unit(s) so served.

## **ARTICLE IV.     ADMINISTRATION OF CONDOMINIUM**

### ***Section 4.01     Name & Form of Unit Owners' Association (the "COA"):***

The unincorporated Unit Owner's association formed pursuant to G.S. 47C-3-101 of the NCCA to manage and administer the Condominium shall exist and be known as the "Bedford Place Condominium Unit Owners' Association" (the "COA").

### ***Section 4.02     Incorporation of COA Instruments by Reference:***

The terms, conditions, and provisions of the COA's Charter, Bylaws, and Rules and Regulations, as validly adopted and/or amended from time to time are incorporated into this RCD as if fully set forth herein and are binding on all Unit Owners.

### ***Section 4.03     Mandatory Membership in COA:***

Every Unit Owner shall automatically be a member of the COA. Ownership of a fee interest in a Unit shall be the sole qualification for membership, and membership shall be appurtenant to and shall not be separated from such ownership. Pursuant to G.S. 47C-3-101 of the NCCA, only Unit Owners may be members of the COA.

### ***Section 4.04     Duties & Powers of COA:***

The COA shall manage and administer the Condominium pursuant to the terms and provisions of the NCCA and this RCD, and promote and protect the enjoyment and beneficial use thereof by the Unit Owners. The COA shall have all of the powers of a Unit Owners' association provided for by law, including but not limited to those specifically enumerated in G.S. 47C-3-102 of the NCCA, the terms and provisions of which are incorporated into this RCD by reference.

The COA shall discharge their duties with the same degree of care that a director is required to exhibit, pursuant to N.C. Gen. Stat. §55-8-30. Any acts by COA shall be subject to the business judgment rule, which establishes a rebuttable presumption that COA decisions have a reasonable basis, are informed and are reached in good faith. Such discharge of duties shall be made: (1) In good faith; (2) With the care an ordinarily prudent person

in a like position would exercise under similar circumstances; and (3) In a manner he reasonably believes to be in the best interests of the condominium owners.

***Section 4.05 COA Action through Board and/or Officers:***

Unless otherwise expressly stated within this RCD or the Instruments, or unless otherwise expressly required by the NCCA, the powers herein or otherwise granted to the COA may be exercised on behalf thereof by its Board of Directors, or otherwise by its authorized Officers, agents, or employees, and all without any further consent or action being required with respect thereto on the part of the members of the COA.

***Section 4.06 Indemnification of Board and Officers:***

Subject to, and in accordance with the provisions and/or limitations set forth within the Instruments, if any, and to the extent otherwise allowed by law, each Director and each Officer of the COA, shall be entitled to indemnification by the COA in connection with any threatened, pending, or completed action, suit, or proceeding, with respect to which such person was or is a party by reason of the fact that such person is or was a Director or Officer of the COA.

***Section 4.07 Rules and Regulations of the COA:***

Without limiting the generality of this Section, the Board shall have the power and authority to make, amend, and revoke reasonable Rules and Regulations concerning the use of the Condominium including without limitation, the Units and/or Common Elements thereof, which shall be binding upon each Unit Owner or Occupant.

***Section 4.08 Professional Management of the HOA:***

The Board of Directors may employ a professional management Person to manage the operation and affairs of the Condominium on its behalf. Any management Person so employed shall be employed only pursuant to a written agreement executed on behalf of the COA by a Majority of the Board of Directors. All such management agreements shall be terminable by the COA with cause upon thirty (30) days prior written notice and without a termination fee, and upon ninety (90) days prior written notice without a termination fee without cause, and the term thereof may not exceed one (1) year. The management Person shall be the agent of the Board of Directors and the COA. To the extent permitted by law, the Board of Directors shall be authorized to delegate to such management Person such of the duties and powers of the COA and/or its Board of Directors and/or its Officers as the Board of Directors shall determine necessary or desirable.

***Section 4.09 Enforcement of Director's Duties:***

In the event that the Board shall fail to perform any duties which under the terms and provisions of the NCCA or this RCD (including any Instruments incorporated herein) are required to be performed by it, any Unit Owner or First Mortgagee who is aggrieved by such failure, shall have the right to proceed in equity to compel the Board of Directors to perform such duties. In no event however, shall any Director have any liability to any Unit Owner or First Mortgagee for any failure by it, or by the Board, to perform any such duties, except to any extent such liability is specifically provided for under applicable North Carolina law.

***Section 4.10 COA Property:***

All funds received, and title to any property acquired by the COA on behalf of the Condominium, and any proceeds thereof, after deducting the costs incurred in receiving or acquiring the same, shall be held for the mutual benefit of the Unit Owners as herein provided, and for the purposes herein stated. The shares of the Unit Owners in the funds and assets of the COA cannot be individually assigned, hypothecated or transferred in any manner except as an appurtenance to a Unit.

***Section 4.11 Records of the COA:***

The COA shall keep and maintain records in accordance with G.S. 47C-3-118 of the NCCA.

***Section 4.12 Delegation of Duties & Powers to Master Association:***

- (a) Pursuant to G.S. 47C-2-120 (Master Associations) the powers, duties, obligations, and authority of the COA as set forth within the NCCA and this RCD, including any Instruments incorporated herein, are hereby perpetually vested within, delegated to, and shall be exercised by the HOA acting as a Master Association for and on behalf of the COA provided that the following conditions are met at all times with respect thereto, it being the intent of said conditions to provide for certain safeguards and protections for the Unit Owners against discrimination by other owners of non condominium property existing within the larger Development of Bedford Place:
- (i) The Development's RMD together with any Instruments defined therein including but not limited to the HOA's Articles, Bylaws, and Rules & Regulations shall establish and provide for the exclusive election by the COA membership to the HOA's executive board at all times of at least one (1) voting Board member, but in no event less than twenty percent (20%) of the total voting Board membership at any given time.
  - (ii) Unless otherwise required by law, no amendment to the RMD or the Instruments separately defined therein which has the substantial effect of removing or adding any exclusive provision



relating to the Condominium, or imposes thereon any discriminatory or materially greater restrictions than those otherwise established for non-condominium owners shall be valid unless approved by an affirmative vote of the same percentage of COA members otherwise required to adopt such an amendment pursuant to this RCD or applicable law. Notwithstanding the foregoing, any amendment to the RMD or the Instruments separately defined therein which has the substantial effect of imposing equally restrictive provisions against all forms of Development property, including non-condominium property shall not be in violation of this provision.

- (iii) Nothing herein shall be deemed to limit the ability of the COA to adopt greater restrictions or limitations for the Condominium or the COA members in addition to any restrictions or limitations otherwise imposed or adopted by this RMD or the HOA to the fullest extent allowed by law.
- (b) In all instances whenever acting for or on behalf of the COA as its Master Association, the HOA shall take such action separately and independently from any other action taken in its capacity as the larger Planned Community lot owners' association; and shall keep a record thereof, together with financial accounts and records for the COA, separate and apart from all other records maintained by the HOA in its capacity as the larger Planned Community lot owners' association.
- (c) Whenever necessary to give full force and effect to the express intent of this RCD to place the HOA acting in such capacity in the same position as the COA itself, the term "COA" as used throughout this RCD or the Instruments incorporated herein and the term "Association" as defined within the NCCA shall be deemed to mean the "HOA" whenever acting in its capacity as the COA's Master Association, and the references herein to the Board of Directors and/or Officers of the COA shall be deemed to mean the Board of Directors or Officers of the "HOA" whenever acting for the HOA in its capacity as the COA's Master Association.
- (d) The unit owners may withdraw the delegation of authority and duties to the HOA as the COA's Master Association by amending this RCD to provide for such withdrawal and shall thereafter be solely responsible for the administration and management of the Condominium through the COA in accordance with applicable North Carolina law

## ARTICLE V. MAINTENANCE

### ***Section 5.01     Statutory Maintenance Responsibility of COA:***

Unless otherwise expressly provided herein, the COA shall have all of the statutory maintenance responsibilities and duties of a Unit Owners' association provided for within the NCCA (including but not limited to those specifically enumerated within G.S. 47C-3-107 thereof entitled "Upkeep, damages, assessment for damages, fines"), the terms and provisions of which are incorporated into this RCD by reference and paraphrased for convenience purposes only as follows:

- (a) *Except as provided in G.S. 47C-3-113(h), the COA is responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the Unit Owners as necessary to recover the costs of such maintenance, repair, or replacement except that the cost of maintenance, repair or replacement of a limited common element shall be assessed as provided in G.S. 47C-3-115(b). Each Unit Owner is responsible for maintenance, repair and replacement of his Unit. Each Unit Owner shall afford to the COA and when necessary to another Unit Owner access through his Unit or the limited common element assigned to his unit reasonably necessary for any such maintenance, repair or replacement activity.*
- (b) *If damage, for which a Unit Owner is legally responsible and which is not covered by insurance provided by the COA pursuant to G.S. 47C-3-113 is inflicted on any common element or limited common element, the COA may direct such Unit Owner to repair such damage or the COA may itself cause the repairs to be made and recover the costs thereof from the responsible Unit Owner.*
- (c) *If damage is inflicted on any Unit by an agent of the COA in the scope of his activities as such agent, the association is liable to repair such damage or to reimburse the Unit Owner for the cost of repairing such damages. The COA shall also be liable for any losses to the Unit Owner.*
- (d) *The bylaws of the COA may in cases when the claim under subsection (b) or (c) is five hundred dollars (\$500.00) or less provide for hearings before an adjudicatory panel to determine if a Unit Owner is responsible for damages to any common element or whether the COA is responsible for damages to any Unit. Such panel shall accord to the party charged with causing damages notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. This panel may assess a liability for each damage incident not in excess of five hundred dollars (\$500.00) against each Unit Owner charged or against the COA. Liabilities of Unit Owners so assessed shall be assessments secured by lien under G.S. 47C-3-116. Liabilities of the COA may be offset by the Unit*

*Owner against sums owing the COA and if so offset shall reduce the amount of any lien of the COA against the Unit at issue.*

- (e) *The Declarant alone is liable for maintenance, repair and all other expenses in connection with real estate subject to continuing development rights.*

### **Section 5.02 Condominium Lawn & Landscaping Maintenance:**

Unless otherwise provided by the HOA pursuant to the RMD, the COA shall maintain the lawn and landscaping within the Condominium installed by the Declarant, or otherwise installed by a Unit Owner with the approval of the COA as a Common Element of the Condominium.

### **Section 5.03 Condominium Road Maintenance:**

The COA shall be responsible for maintaining any drives or parking areas located within the Common Elements of the Condominium, provided that the costs thereof with respect to any Limited Common Elements shall be specially allocated and assessed as more particularly described within Article VI below.

## **ARTICLE VI. ASSESSMENTS & LIENS**

### **Section 6.01 Assessments:**

Each Unit is and shall be subject to Regular and Special assessments existing before, on, and after the date of recording of this RCD. Each Unit Owner covenants and agrees to pay to the COA all applicable assessments for Common Expenses, capital improvements, or any other lawful purposes authorized by the NCCA or this RCD.

Unless otherwise expressly provided herein, the COA shall make assessments for Common Expenses pursuant to G.S. 47C-3-115 of the NCCA, the terms and provisions of which are incorporated into this RCD by reference, and paraphrased for convenience purposes only as follows:

- (a) *The COA shall make an assessment for Common Expenses at least annually.*
- (b) *Except for assessments under subsections (c), (d), and (e) hereof, all common expenses must be assessed against all the Units in accordance with the allocations set forth in this RCD. Any past due common expense assessment or installment thereof bears interest at the rate of eighteen percent (18%) per year unless a lesser rate is otherwise established by the COA.*
- (c) *To the extent required by this RCD:*
- (1) *Any common expense associated with the maintenance, repair, or replacement of a limited common element must be assessed against the Units to which that limited common element is assigned, equally, or in any other proportion that this RCD provides;*
  - (2) *Any common expense or portion thereof benefiting fewer than all of the Units must be assessed exclusively against the Units benefited; and*
  - (3) *The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.*
- (d) *Assessments to pay a judgment against the association (G.S. 47C-3-117(a)) may be made only against the Units in the condominium at the time the judgment was entered, in proportion to their common expense liabilities.*
- (e) *If any common expense is caused by the misconduct of any Unit Owner or Occupant, the association may assess that expense exclusively against his Unit.*
- (f) *If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.*

### **Section 6.02 Assessments for Common Expenses:**

The amount of all Common Expenses not specially allocated or assessed against one or more but less than all of the Units pursuant to the provisions of this RCD, less the amount of all undistributed and otherwise unreserved COA funds, shall be assessed against the Units in accordance with the Allocated Interest of each such Unit as shown within Exhibit "RCD-B" attached hereto and incorporated herein by reference. The general annual assessment shall be established by the Board in the manner set forth in this section.

At least thirty (30) days prior to the annual meeting of the COA, the COA shall prepare and submit in writing to the Unit Owners an estimated budget of the Common Expenses for the next succeeding fiscal year to be paid by Assessments collected from the Unit Owners, together with the amount of the annual Assessment payable by each Unit Owner during such fiscal year, and together with notice that the budget shall be submitted for ratification by the members in the manner prescribed within G.S. 47C-3-103(c).

If the estimated budget proves inadequate for any reason at any time during the year, then upon the affirmative vote of Unit Owners having at least sixty seven percent (67%) of the total allocated COA votes, the Board may levy at any time a further Assessment against the Unit Owners and notify the Unit Owners accordingly.

If for any reason an annual budget is not approved by the Board, a payment in the amount required by the last prior Assessment shall be due upon each Assessment due date until changed by a new Assessment.

Each Unit Owner shall be obligated to pay such Assessments to the COA in the manner and pursuant to any payment schedule specifically established by the Board of Directors as modified from time to time.

Notwithstanding G.S. 47C-3-114 (Surplus Funds) in any year in which there is an excess of Assessments and other income over expenditures, the Board, by resolution, and without the necessity of a vote of the Unit Owners, shall determine either to apply such excess or any portion thereof against and reduce the subsequent year's Assessments, or allocate the same to one or more reserve accounts of the COA.

Common Expenses of the COA to be paid through general annual Assessments shall include, but shall not necessarily be limited to, the following:

- (a) Management/Administration fees/expenses, including without limitation, legal and/or accounting fees.
- (b) Utility charges for utilities serving the Common Elements, and charges for other common services provided to all Unit Owners including any utilities provided to the Units not separately metered.
- (c) The cost of any master or blanket policies of insurance purchased for the benefit of Unit Owners and/or the COA as required by the NCCA or this RCD and such other insurance coverage as the Board of Directors determines to be in the interest of the COA and the Unit Owners.
- (d) The expense of maintaining, operating and/or repairing the Common Elements unless otherwise specially allocated and assessed herein.
- (e) Such other expenses as may be determined from time to time by the Board to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against each Unit.
- (f) The expense for establishing and maintaining an adequate reserve fund or funds for the periodic maintenance, repair and replacement of those Common Elements (including Limited Common Elements) which the COA may be obligated to maintain, and of reserves to cover operating contingencies or deficiencies arising from unpaid Assessments or liens, emergency expenditures, and other matters, as may be authorized from time to time by the Board.
- (g) Any and all other Common Expenses as are permitted by the NCCA or state law.

### ***Section 6.03      Special Assessments & Special Allocations of Assessments:***

- (a) Capital Improvements. In addition to any other assessments authorized herein, the COA may charge each Unit, in any fiscal year of the COA, a Special Assessment applicable to that fiscal year only for the purpose of defraying, in whole or in part, the cost of any construction of a capital improvement upon and to any part of the Common Elements of the Condominium, including fixtures and personal property related thereto; provided that any such Special Assessment must be approved by the affirmative vote of at least Sixty Seven percent (67%) of all COA Votes allocated among Units at the time of the vote.
- (b) Misconduct of Owner/Occupant. The COA may charge any Unit(s) a special assessment for the common expense incurred by the COA as a result of misconduct by the Owner(s) or Occupant(s) of such Unit(s).
- (c) Special Assessments for Damages & Fines. If a Unit Owner is legally responsible for damage, not covered by insurance provided by the COA pursuant to G.S. 47C-3-113, inflicted on any Common Element, the COA may direct such Unit Owner to repair the damage, or may itself cause such repairs to be made and recover damages from the responsible Unit Owner as provided in G.S. 47C-3-107.
- (d) Discretionary Allocation of Certain Common Expenses. Any Common Expense occasioned by the conduct of less than all of the Unit Owners or their Occupants may be specially assessed by the Board against the Units thereof. Any Common Expenses benefiting less than all of the Units, may be assessed by the Board against the Unit(s) benefited in accordance with the benefit received. Any such assessment(s) if levied shall be made equitably by the Board within its sole and reasonable judgment and specify the amount and due date of such assessment. In no event shall the HOA or any Board Member have any liability for any judgment or decision made reasonably in good faith under this paragraph.
- (e) Special Allocation of Assessments for Limited Common Elements. Unless otherwise expressly provided herein, Common Expenses associated with the maintenance, repair, or replacement of any Limited Common Element shall be assessed exclusively against the Unit(s) to which such Limited Common Element is assigned. Subject to the Board's right to specifically allocate any such assessment in accordance with its discretionary allocation authority provided hereinabove, such assessments, by default, shall be divided equally among multiple Units assigned to any such Limited Common Element.

### ***Section 6.04      Payment and Collection of Assessments:***

- (a) Liens. Each of the applicable assessments described above, or otherwise authorized under the NCCA or this RCD, together with interest thereon and the costs of collection thereof, including reasonable

- attorneys' fees, and together with late fees and interest, if any, shall be a continuing lien upon each Unit and the personal obligation of such Unit's Owner(s) and shall run with and burden the land notwithstanding any conveyance thereof unless otherwise expressly stated herein.
- (b) Payment Schedule. Assessments whether regular, special, or otherwise shall be paid in such manner and on such dates as the Board may establish, which may include installments, early payment discounts, reasonable late fees (see limitation below), and special requirements for Unit Owners with a history of late payment.
- (c) Non Exemption/Abatement. No Unit Owner may exempt himself from liability for assessments by non-use of Common Elements, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Unit Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the COA to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action taken by the COA.
- (d) Interest. Any assessment against any Unit which remains unpaid for a period of thirty (30) days after its regular due date, or otherwise after delivery of a request for payment thereof shall be deemed past due, and interest shall accrue on any such unpaid amount from the date that it was otherwise due at the rate to be established by the COA not exceeding eighteen percent (18.00%) per annum.
- (e) Late Fees. In addition to the foregoing a reasonable charge for late payment of assessments, not to exceed the greater of twenty dollars (\$20.00) per month or ten percent (10%) of any assessment installment unpaid shall be assessable and due for every applicable late payment period including the date upon which the assessment initially became past due and continuing until such time as all past due assessments together with any applicable interest and late charges are paid in full.
- (f) Application of Payments. All payments on account shall be applied first to any of the aforesaid costs of collection, then to late charges, then to interest owed, and finally to the principal amount of any past due Assessment.
- (g) Certificates of Assessments. The COA shall, within 10 business days of any such demand, and for a reasonable charge, furnish a certificate signed by an officer of the COA stating whether all assessments against a specified Unit have been paid. A properly executed certificate of the COA as to the status of assessments against a Unit shall be binding upon the COA as of the date of its issuance.
- (h) Enforcement. The COA shall have the power to take whatever action is necessary, at law or in equity, to collect any past due assessments, together with interest, late fees and costs of collection, including reasonable attorneys' fees. When an assessment becomes thirty (30) days past due, the lien created hereunder may be filed by the COA against the delinquent Unit Owner in the office of the Clerk of Superior Court of Transylvania County in accordance with G.S. 47C-3-116 of the NCCA, and thereafter may be enforced against any such Unit Owner in accordance with the terms thereof including but not limited to the ability of the COA to foreclose against the Unit on which the lien is placed in like manner as a mortgage on real estate. The lien provided for in this provision or otherwise acquired pursuant to the NCCA shall be in favor of the COA and shall be for the benefit of all its Unit Owners. The COA, acting through the Board, shall have the power to bid on the Unit at any foreclosure sale and to acquire, hold, lease, encumber and convey the same. No lot shall be classified as withdrawable property and any buyer that acquires title to property through a foreclosure sale, either judicial or non-judicial, will take subject to the covenants, conditions, and restrictions set forth within this RMD including any Instruments or Exhibits incorporated herein by reference, as all may be validly amended or adopted from time to time hereafter. In addition thereto, each such assessment, together with interest, late fees, and costs of collection, including reasonable attorneys' fees shall also be deemed the personal obligation and liability of the Owner(s) of any Unit to which the same is appurtenant, who shall remain liable to the COA for the payment thereof notwithstanding the conveyance of any such Unit or the continuing lien thereupon in favor of the COA until otherwise paid in full, and may be enforced by the COA by filing a legal action for the collection thereof in the same manner as a debt owed thereto in addition to any other remedies authorized herein or otherwise by law.
- (i) Protection of First Mortgagees. Notwithstanding anything contained in this RCD which may be construed to the contrary, in the event any First Mortgagee that is an Institutional Mortgagee shall acquire title to any Unit by virtue of any deed in lieu of foreclosure of a First Mortgage, or by foreclosure itself, such First Mortgagee shall not be liable for, nor shall such Unit be subject to a lien for any Assessments chargeable to such Unit on account of any period prior to the time such First Mortgagee shall so acquire title to such Unit; provided however, that Common Expenses collectible thereafter from all Unit Owners, including such First Mortgagee, shall be paid thereby as set forth in this RCD.
- (j) Suspension of Voting Privilege. In addition to the foregoing, the Board may suspend the vote of any Unit Owner, as well as the right of such Unit Owner to use the Common Elements, during the period in which any Assessment or portion thereof remains unpaid after notice and an opportunity to be heard is provided pursuant to G.S. 47C-3-107.1 (Procedures for fines and suspension of condominium privileges or services) the terms and provision of which are incorporated into this RCD as if fully set out herein.

## ARTICLE VII. EASEMENTS & DECLARANT RIGHTS

In addition to any easements validly created and shown by the Plats or other previously recorded legal instruments, the easements described in this Article are hereby made, granted, reserved, and established, subject to and in accordance with the following terms and conditions for the benefit of the COA, unless otherwise stated herein:

### ***Section 7.01***      ***Easement for Encroachments:***

The Condominium and each Unit therein is subject to an easement for encroachment pursuant to G.S. 47C-2-114 of the NCCA, the terms and provisions of which are incorporated herein by reference.

### ***Section 7.02***      ***Submission to Development Easements:***

As part of the larger Development, the Condominium and the Units therein, unless otherwise expressly provided herein or required by law, shall be subject to all of the easements, if any, reserved or described within or otherwise established by the RMD in the same manner as the individual lots owned therein.

### ***Section 7.03***      ***No Enlargement without Development Approval:***

As part of the larger Development, the Condominium Unit Owners shall not enlarge or establish any easement affecting the Condominium or Development without the written approval thereof by the HOA, not to be unreasonably withheld.

## ARTICLE VIII. INSURANCE & EMINENT DOMAIN/CONDEMNATION

### ***Section 8.01***      ***Statutory Insurance Requirement & Authority:***

The COA shall obtain and maintain at all times insurance coverage as provided by G.S. 47C-3-113 of the NCCA, the terms and provisions of which are incorporated herein by reference as if fully set forth below.

### ***Section 8.02***      ***Additional Insurance Requirements:***

The COA shall obtain and maintain at all times in addition to the foregoing and to the extent not inconsistent therewith:

- (a) Property insurance pursuant to G.S. 47C-3-113(a)(1) covering not less than one hundred percent (100%) of the replacement costs of the insured property as otherwise described therein, and including extended perils coverage against vandalism, malicious mischief, debris removal, cost of demolition, windstorm, and water damage. Additionally the liability insurance obtained by the COA pursuant to G.S. 47C-3-113(a)(2) shall cover not less than one million dollars (\$1,000,000.00) for single limit coverage as otherwise described therein;
- (b) Fidelity coverage against dishonest acts on the part of its directors, officers, employees, agents and volunteers responsible for handling funds belonging to, or administered by, the COA in an amount at least equal to the sum of one fourth (1/4) of the previous fiscal year's annual assessments plus reserves collected for the entire Condominium, or in such greater amount as the Board may determine; and
- (c) Such other types of insurance either required by applicable governmental authority, law, or authorized by the COA from time to time.

### ***Section 8.03***      ***Notice:***

Pursuant to G.S. 47C-3-113(g) an insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any unit owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or non-renewal has been mailed to the association, each unit owner and each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

### ***Section 8.04***      ***Special Assessment for Increased Risk:***

In the event activities are conducted within a Unit such as to materially increase the premium or cost of insurance obtained pursuant to the provisions hereof, then in that event, the increased amount of such premium shall be assessed against such Unit causing such increase.

### ***Section 8.05***      ***Eminent Domain:***

In the event that all or part of the Condominium shall be taken by any authority having the power of eminent domain, the allocation of the award for such condemnation and all related matters, such as the reallocation of liabilities for Assessments and Votes, shall be made in accordance with G.S. 47C-1-107 of the NCCA or other applicable law, and to the extent not inconsistent therewith as follows:

- (a) If any Unit or portion thereof, or the Common Elements of the Condominium or any portion thereof is made the subject matter of a condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the holder of any First Mortgage on a Unit, will be entitled to timely written notice of any such proceeding or proposed acquisition, and no provision of this RCD will entitle the Owner or other person to priority over any Mortgagee with respect to the distribution of the proceeds of any award or settlement relating to such Unit.
- (b) In the event all or any part of the Common Elements of the Condominium shall be taken in condemnation or by eminent domain, each Owner hereby grants an irrevocable power of attorney to the COA to represent such Owner in any and all condemnation proceedings, negotiations, settlements, and agreements with the condemning authority, as they pertain only to such Owner's interest in the Common Elements of Condominium.

## **ARTICLE IX. ARCHITECTURAL CONTROL & USE RESTRICTIONS**

All Units shall be subject to the following restrictions on use:

### ***Section 9.01      Development Use Restrictions Apply to Condominium:***

As a part of the larger Development, the Condominium and each Unit Owner or Occupant of a Unit therein is, and shall be governed by, and subject to, any and all terms and provisions set forth within the Bedford Place RMD or any Instruments incorporated therein by reference which restricts or conditions the use of, or modification to, all forms of property existing within the Development which shall be deemed to include the Condominium or Units therein. Such terms and provisions shall include but not be limited to those set forth within the "Architectural Control & Use Restrictions" Article of the RMD.

### ***Section 9.02      Additional Use Restrictions:***

In addition to the foregoing, the COA may adopt, amend, and repeal from time to time additional restrictions or conditions including without limitation additional RRs regulating the use of the Condominium or the Units therein, which may be more restrictive than those otherwise applicable to the larger Development.

## **ARTICLE X. GENERAL PROVISIONS**

### ***Section 10.01    Parties Bound:***

All Persons owning or occupying any Unit, or otherwise acquiring any interest in any portion of the Condominium including any Unit(s) shall be bound by the provisions of this RCD.

### ***Section 10.02    Duration:***

The provisions of this RCD shall run with and bind the land, shall be binding upon and inure to the benefit of all Owners and Mortgagees, their heirs, executors, legal representatives, occupants, successors, and assigns, and shall be and remain in effect for a period of twenty (20) years, from the date this RCD is recorded, after which time this RCD shall be automatically extended perpetually for successive periods of ten (10) years each, to the extent permitted by North Carolina law.

### ***Section 10.03    Amendment or Rescission:***

Except as provided herein, this RCD may be amended or rescinded only by a written instrument executed by the COA and authorized by the affirmative vote of at sixty seven percent (67%) of all the allocated votes in the COA existing at that time, cast in person or by proxy at a meeting duly held in accordance with the NCCA and the COA Bylaws. Any amendments or other changes hereto must be recorded at the Transylvania County Registry to be effective.

### ***Section 10.04    Rights of Mortgagees & Owners:***

In addition to the rights of Mortgagees elsewhere provided, each Mortgagee and each Owner shall: (a) be entitled to written notice from the COA of any default by an Owner in the performance of his obligations under this RCD or the Instruments incorporated herein, which is delinquent for a period of more than thirty (30) days including but not limited to any delinquency in payment of an Assessment; (b) be entitled to receive notice of and to designate a representative to attend and observe all meetings of Owners, but not meetings of the Board of Directors; (c) be entitled to receive written notice of any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which a Mortgagee holds a Mortgage; (d) be entitled to receive thirty (30) days prior written notice of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the COA; (e) be entitled to receive written notice of any proposed action which would require the consent of a specified percentage of the Mortgagees; and (f) be furnished copies of annual financial reports within one hundred twenty (120) days after the end of the COA's fiscal year; provided, however, that such Owner or Mortgagee shall first file with the COA a written request (setting forth the name of such Owner or Mortgagee and

the Unit Designation with respect to which such request is made) that notices of default, notices of meetings and copies of financial reports be sent to a named agent or representative of the Mortgagee or Owner at an address stated in such notice. Further, each Mortgagee and Owner shall, upon request, be entitled to inspect the books, records and financial statement of the COA (including the Instruments and other documents) during normal business hours. Any First Mortgagee shall, upon written request, be entitled to an audited financial statement of the COA for the immediately preceding fiscal year, free of charge to the First Mortgagee so requesting it.

### **Section 10.05 Enforcement:**

- (a) **Compliance:** Each Owner and Occupant shall comply strictly with the provisions of this RCD and the Instruments. In the event of a violation or breach, or threatened violation or breach, of any of the same, the COA or, in a proper case, any aggrieved Owner or Owners, jointly and severally, shall have the right to proceed at law or in equity to compel compliance therewith, or to prevent a threatened violation or breach thereof.
- (b) **Self Help After Due Process:** In addition to all other remedies, the COA, or a duly authorized agent thereof, shall have the right to enter upon any portion of the Common Elements where a violation exists and, at the expense of the violating Owner, abate or remove any structure, thing or condition that may be or exist contrary to the intent and meaning hereof or of the Instruments, if after notice and an opportunity to be heard given in accordance with the provisions of G.S. 47C-3-107.1 it shall not have been corrected by such Owner.
- (c) **Non Liability for Self Help & Attorneys' Fees:** Neither the COA, nor its agents, shall be deemed guilty or liable for any manner of trespass for such entry, abatement or removal. Should the COA employ legal counsel to enforce any of its rights or remedies of the COA, all costs incurred in such enforcement if successful, including a reasonable fee for counsel shall be paid by the violating Owner.
- (d) **Injunctions Authorized:** Inasmuch as the enforcement of the provisions hereof and of the Instruments are essential for the protection of present and future Owners, it is hereby declared that any breach thereof cannot be adequately compensated by recovery of damages alone, and that the COA or, in any proper case, any aggrieved Owner or Owners, in addition to all other remedies may require and shall be entitled to remedy by injunction to restrain or enjoin any such any violation or breach, or threatened violation or breach.
- (e) **Non Waiver:** No delay, failure or omission on the part of the COA, or any aggrieved Owner or Owners in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to do so thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement.
- (f) **Non-Accrual of Action:** No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the COA or its Officers or Directors for, or on account of, any failure to bring any action on account of any violation or breach, or threatened violation or breach, of this RCD or of the Instruments, however long continued, or for the imposing of provisions which may be unenforceable.

### **Section 10.06 Other Provisions:**

- (a) **Severability:** Any and all portions of any provisions of this RCD and the Instruments which are prohibited, unenforceable, or otherwise not authorized in any jurisdiction shall, as to such portions and jurisdictions only, be deemed ineffective to the extent of such prohibition or unenforceability only, without invalidating or affecting the continuing validity and enforceability of the remaining portion(s) of any such provision(s).
- (b) **Captions:** The titles/captions/headings of any and all portions of this RCD and the Instruments are intended for convenience of reference purposes only, and shall not in any event whatsoever be deemed to affect the meaning or interpretation of this RCD or the Instruments.
- (c) **Law Controlling:** This RCD and the Instruments shall be construed and governed by North Carolina law.
- (d) **Usage and Interpretation of Terms:** The words or terms used in this RCD or the Instruments which are used in the present tense include the future as well as the present; words used in the masculine gender includes the feminine and neuter, and vice versa; words used in the singular number includes the plural, and the singular; and the word "Person" without limiting the specific definition thereof provided herein, includes a corporation or other entity as well as a natural person.
- (e) **Bold Italicized Text:** The bold italicized text within this RCD represents relevant portions of the NCCA which have been inserted into this RCD for convenience purposes only (and in some cases slightly modified for easier interpretation) to aid the reader in referring to and understanding certain applicable portions of the NCCA as they pertain to this RCD. No bold italicized text herein should be relied upon in lieu of obtaining and relying upon the actual and most recent version of the applicable NCCA statute which shall control and prevail notwithstanding any conflict therewith.



- (f) Statutory References: All references herein to any statutory provision(s) shall be construed to include any subsequent amendments thereto or replacements thereof as may be validly enacted from time to time by the North Carolina General Assembly. All such statutes referred to herein shall be incorporated herein by specific reference thereto.

**Section 10.07 Interpretation:**

- (a) The provisions hereof shall be liberally interpreted, and if necessary, they shall be so extended or enlarged by implication as to make them fully effective. In all cases, the terms, conditions, and provisions set forth within or provided for in this RCD shall be construed and given that interpretation or construction which, in the opinion of the COA Board of Directors, will best effect the intent of the general plan of the Condominiums.
- (b) The effective date of this RCD shall be the date it is filed of record in the office of the Transylvania County Registry.
- (c) Conflicting Terms: In the event of any conflicts or inconsistencies arising between the Acts, this RCD, the Instruments defined herein, the RMD, or the Instruments defined therein: 1) the NCPCA, the RMD, the HOA Articles, the HOA Bylaws, the HOA Rules & Regulations, and finally any other Instruments defined within the RMD shall control and prevail in that descending order of priority in all matters pertaining to the Development as a Planned Community or otherwise in any matters not solely related to the condominium form of property ownership or separate management thereof with respect to which the NCCA, this RCD, the COA Charter, the COA Bylaws, the COA Rules & Regulations, and finally any other Instruments defined within the RCD shall control and prevail in that descending order of priority with respect to all such condominium related matters.

**Section 10.08 List of Exhibits:**

- (a) Exhibit "RCD-A": The "Condominium Property"
- (b) Exhibit "RCD-B": The "Allocated Interests"
- (c) Exhibit "RCD-C": The "Certified Development Specifications for Bedford Place Condominiums"
- (d) Exhibit "RCD-D": The "Association Charter of Bedford Place Condominiums Unit Owners' Association"

**IN WITNESS WHEREOF**, the undersigned, representing at least sixty seven percent (67%) of the total allocated votes within the Condominium in accordance with their allocated shares as stated within the 2006 Amendment recorded in Book 334 at Page 592 of the Transylvania County Registry, has read and by setting their hand and legal SEAL hereunto, does hereby adopt and agree to be bound by this RCD, together with the Instruments defined herein, as of the day and year first stated above.

**SEE ATTACHED SIGNATURE PAGES FOLLOWING ALL EXHIBITS**

**EXHIBIT "RCD-A"**  
to  
**RESTATED CONDOMINIUM DECLARATION**  
of  
**Covenants, Conditions, and Restrictions**  
for  
**BEDFORD PLACE CONDOMINIUMS**  
A separately administered but contiguous part of the larger  
**Mixed Property Planned Community Development**  
of  
**BEDFORD PLACE**

---

**"THE "CONDOMINIUM PROPERTY"**

BEING all that parcel of property designated "Condominium Parcel" as surveyed by Michael A. Pfoutz Sr., PLS and shown on a plat thereof recorded on Plat File 16, Slide 261, Transylvania County Registry dated November 24<sup>th</sup>, 2014.

Subject to the rights-of-way of all roads which may presently traverse the property, to all road rights-of-way which may presently appear of record, to the rights-of-way of all utility lines which may presently traverse the property and to all rights-of-way for public utilities which may presently appear of record.

**EXHIBIT "RCD-B"**  
 to  
**RESTATED CONDOMINIUM DECLARATION**  
 of  
**Covenants, Conditions, and Restrictions**  
 for  
**BEDFORD PLACE CONDOMINIUMS**  
**A separately administered but contiguous part of the larger**  
**Mixed Property Planned Community Development**  
 of  
**BEDFORD PLACE**  
**Drafted: July 1st, 2014**

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The "Allocated Interests" of the Units

Identifiable Unit as Identified within the Plats	Total Number of Votes in the COA Allocated to each Identified Unit	Allocated Interest of each Identified Unit in the Common Elements, and each such Unit's share of Common Expenses except as provided herein below:*
C-1	1	25%*
C-2	1	25%*
C-3	1	25%*
C-4	1	25%*
<b>4 TOTAL UNITS</b>	<b>4 TOTAL COA VOTES</b>	<b>100% TOTAL ALLOCATED INTEREST WITHIN THE CONDOMINIUM</b>

\*Notwithstanding anything herein to the contrary, and in accordance with the intent of that formula first described within the footnote to Exhibit "C" of the Original Declaration, as recorded in Book 97, Page 305 TCR, which formula was based upon the potential existence of twenty four (24) units, composed of twelve (12) two bedroom units and twelve (12) three bedroom units, and in further accordance with the intent expressed in Provision 3.9 of said Original Declaration, as recorded in Book 97, Page 282 TCR:

The COA, pursuant to this RCD shall assess the expenses incurred for all structural maintenance and exterior maintenance related to the Condominiums such as roofing, gutters, paint and vinyl repair, and/or for lawn and/or landscaping maintenance of the Condominium Property as follows:

Each two (2) bedroom Condominium Unit shall be assessed for 21.944% thereof, and each three (3) bedroom Condominium Unit shall be assessed for 28.056% thereof.

**EXHIBIT "RCD-C"**  
to  
**RESTATED CONDOMINIUM DECLARATION**  
of  
**Covenants, Conditions, and Restrictions**  
for  
**BEDFORD PLACE CONDOMINIUMS**  
**A separately administered but contiguous part of the larger**  
**Mixed Property Planned Community Development**  
of  
**BEDFORD PLACE**

Pursuant to North Carolina General Statute §47C-2-109(b)(6) of the North Carolina Condominium Act a verified statement of an architect licensed under the provisions of Chapter 83A of the General Statutes certifying that such plats fully and accurately depict the layout, location, ceiling and floor elevations, unit numbers and dimensions of the units, as built, is recorded in Deed Book 709, Page 676 of the Transylvania County Register of Deeds and, thus, incorporated by reference herein.

**EXHIBIT "RCD-D"**

to

**RESTATED CONDOMINIUM DECLARATION**

of

**Covenants, Conditions, and Restrictions**

for

**BEDFORD PLACE CONDOMINIUMS**

A separately administered but contiguous part of the larger

Mixed Property Planned Community Development

of

**BEDFORD PLACE**

Drafted: July 1st, 2014

**ASSOCIATION CHARTER**

of

**BEDFORD PLACE CONDOMINIUMS**

**UNIT OWNERS' ASSOCIATION**

**An Unincorporated Nonprofit Association**

**Formed Pursuant to N.C.G.S. § 59B**

**The North Carolina Uniform Unincorporated Nonprofit Association Act**

**WITNESSETH:**

This Association Charter (the "Charter") of Bedford Place Condominiums Unit Owners' Association (the "Association" or "COA") is hereby made and entered into by and between the undersigned condominium unit owners for the purpose of forming and establishing an unincorporated nonprofit unit owners' association to administer the affairs of the Bedford Place Condominiums (the "Condominium") pursuant to the laws of the State of North Carolina, including but not limited to the North Carolina Condominium Act (the "NCCA") codified in Chapter 47C of the North Carolina General Statutes, as the same may be amended from time to time.

**ARTICLE I. NAME:** The name of the association shall be the:

**"BEDFORD PLACE CONDOMINIUM OWNERS' ASSOCIATION"**

**ARTICLE II. DURATION:** The period of duration of the association is: PERPETUAL

**ARTICLE III. CHARTER BACKGROUND & RELATED INSTRUMENTS:**

- A. This Charter is attached as an exhibit to and executed and adopted together with and as part of the execution and adoption of certain additional instruments entitled "Restated Maser Declaration of Covenants, Conditions, & Restrictions for Bedford Place" (the "RMD"); and "Restated Condominium Declaration of Covenants, Conditions, & Restrictions for Bedford Place Condominiums" (the "RCD").
- B. Notwithstanding the foregoing, this Charter is intended to be an independent legal instrument and shall be deemed effective upon adoption by the unit owners of the Condominium.
- C. The terms and provisions of the RMD and RCD, to the extent not inconsistent with this Charter are incorporated herein by reference including without limitation the recital provisions thereof which provide a more detailed explanation about the history of the Condominium and the larger Planned Community Development of which it is one part.

**ARTICLE IV. MEMBERSHIP:**

- A. Every unit owner shall automatically be deemed a member of the unit owners' association. Ownership of a fee interest in a unit shall be the sole qualification for membership, and membership shall be appurtenant to and shall not be separated from such unit ownership. Pursuant to G.S. 47C-3-101 of the NCCA, only unit owners may be members of said association.

- B. Each member shall have such designations, rights, powers, privileges, and obligations as provided for by law including without limitation the NCCA, and to the extent not inconsistent therewith, any applicable Declaration(s) of Condominium or any related instruments affecting the Condominium, as the same may be validly amended from time to time.

**ARTICLE V. PURPOSES:** The purposes for which the COA is organized are:

- A. To serve in the capacity of a unit owners' association and to manage and administer the affairs of the Condominium as required by including without limitation the NCCA, and to the extent not inconsistent therewith, any applicable Declaration(s) of Condominium or any related instruments affecting the Condominium, as the same may be validly amended from time to time.
- B. To promulgate rules and regulations and perform such deeds and acts as are deemed necessary to achieve the aforesaid purposes and promote the health, safety and welfare of COA members; and
- C. To transact any lawful activity which a unit owner association acting pursuant to the NCCA, or otherwise which an association organized under the Uniform Unincorporated Nonprofit Association Act codified in Chapter 59B of the North Carolina General Statutes, may have.

**ARTICLE VI. POWERS:** The non-exclusive powers of the association in furtherance of its purposes set out hereinabove shall be:

- A. To have and to exercise any and all powers, rights and privileges; and to perform all of the duties and obligations which a unit owners' association organized under the NCCA and/or otherwise organized as an Unincorporated Nonprofit Association under the Uniform Unincorporated Nonprofit Association Act may now or hereafter have; and
- B. To have and to exercise any and all additional and lawful powers, rights and privileges, and to perform all of those additional and lawful duties and obligations which are necessary or desirable for carrying out the purposes set forth hereinabove and for protecting the lawful rights and interests of the Condominium membership that are established by or otherwise provided for within any applicable Declaration(s) affecting the Condominiums recorded in the Transylvania County Register of Deeds Office as the same may be validly amended from time to time;
- C. The Association is hereby expressly empowered to delegate any or all of its powers to the Bedford Place Master Association in the manner prescribed by NCCA 47C-2-120, and to the extent not inconsistent therewith, as otherwise provided for within any Declaration(s) of Condominium or any related instruments affecting the Condominium, as amended.
- i. It is the express intent of this provision that the COA be empowered and enabled (but not required) to vest its powers within the Bedford Place Master Association for the non-exclusive purpose of enabling such Master Association to more efficiently manage and administer the affairs of the entire Planned Community Development, including the Condominiums as one part thereof, as a single governing body in accordance with applicable law and other governing instruments affecting the Condominiums to the extent not inconsistent therewith as the same may be validly amended from time to time.

**ARTICLE VII. ASSOCIATION MANAGEMENT:**

- A. The membership of the COA, having determined it to be in their best interest, hereby vests within, and delegates unto, the management responsibilities, duties, powers and authority of the COA within the Bedford Place Homeowners' Association, Inc., to have and exercise the same on the COA's behalf as its Master Association thereof, and at all times in accordance with applicable law including without limitation the NCCA, and to the extent not inconsistent therewith, with the terms and provisions of the RMD, the RCD, and the Instruments thereof, including without limitation the HOA Bylaws, unless and until such time as this Charter is validly amended to revoke such authority at which time unless otherwise directed by any such amendment, the COA shall be managed in the manner provided for within any COA Bylaws adopted for such purpose, provided that such management shall at all times be in accordance with applicable law, including without limitation the NCCA, and to the extent not inconsistent therewith, in further accordance with the terms and provisions of any Declaration(s) of Condominium or any related instruments affecting the Condominium, as the same may be validly amended from time to time

**ARTICLE VIII. NONPROFIT ASSOCIATION & DISSOLUTION:**

- A. The COA shall not be operated for profit and no part of the net earnings of the COA shall inure to the benefit of any officer, director or individual member(s) of the COA; and the assets thereof shall be distributed in accordance with applicable law in the event of any dissolution of the COA or termination of the Condominium.

**ARTICLE IX. AMENDMENT:** Amendment of this Charter shall require the affirmative Vote of unit owners having at least sixty seven (67%) of the total votes of the COA as allocated pursuant to the RCD. Any such Amendment shall be effective upon its recordation in the Transylvania County Registry.

**IN WITNESS WHEREOF**, these Articles have been and shall be deemed adopted by each unit owner otherwise executing the Restated Master Declaration to which these Articles are attached as an exhibit thereto and incorporated therein.

IN WITNESS WHEREOF, the undersigned Bedford Place Homeowner's Association, Inc., by its President, does hereby certify that the foregoing Restated Master Declaration of Covenants, Conditions and Restrictions for Bedford Place and attached Exhibits thereto were duly approved and adopted by the affirmative vote of Members of Bedford Place Homeowner's Association, Inc. holding at least sixty-seven percent (67%) of the total vote of the said Association by mailing a copy of their duly executed signatures, attached below, for that purpose.

This 25<sup>th</sup> day of February, 2015.

BEDFORD PLACE HOMEOWNER'S ASSOCIATION, INC.

By: Alan C. Merca  
President

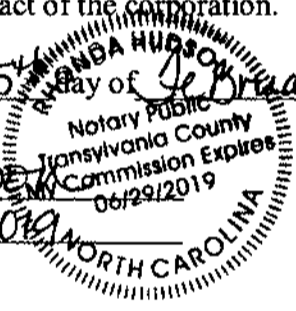
Attest: Pat M. Davis  
Secretary

STATE OF NORTH CAROLINA  
COUNTY OF TRANSYLVANIA

I, Rhonda Hudson, a Notary Public for said County and State, do hereby certify that Pat M. Davis, personally appeared before me this day and acknowledged that she is Secretary of the Homeowner's Association, a corporation, and that she, as Secretary of the Homeowner's Association, being authorized to do so, attested that the foregoing instrument was signed in its name by its President as the act of the corporation.

Witness my hand and official seal, this 25<sup>th</sup> day of February, 2015

Notary Public, Rhonda Hudson  
My Commission Expires: 06/29/2019





**RESTATED  
BYLAWS  
OF  
BEDFORD PLACE HOMEOWNERS' ASSOCIATION, INC.**

These Restated Bylaws of Bedford Place Homeowners' Association, Inc. (the "HOA") are hereby adopted and shall be effective this 11<sup>th</sup> day of March, 2015.

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**Article I. Corporate Name & Location:**

The name of the Corporation is Bedford Place Homeowners' Association, Inc. and its principle office shall be located at: PO Box 1681 Brevard, NC 28712, or such other place as shall be selected by the Board of Directors, but meetings of Owners and Directors may be held at such places within the State of North Carolina, County of Transylvania, as shall be selected by the Board of Directors.

**Article II. Definitions:**

2.01 "Declaration" shall mean the Restated Master Declaration of Covenants, Conditions, & Restrictions for Bedford Place, A Mixed Property Planned Community Development Consisting of Villas, Townhomes, and a Condominium dated 3/11/2015 and recorded in Book: 719, Page: 1, of the Transylvania County Registry, as the same may be amended.

2.02 The terms defined in Article I of the Declaration shall have the same meanings as set forth therein in these Bylaws.

**Article III. Mandatory Membership:**

Every Owner of any Lot (including any Unit, Townhome or Villa) within the Development of Bedford Place shall automatically become and/or be deemed a member of the HOA upon taking or owning title to any Lot, and shall remain a member thereof, for the entire period of any such ownership. If title to a Lot is held by more than one person, the membership shall be shared in the same proportion as the title interest owned therein, but there shall be only one membership per each Lot. Membership does not include a Mortgagee, and the giving of a Mortgage shall not terminate a Lot Owner's membership. Membership shall be appurtenant to the Lot to which it appertains, shall be transferred automatically by conveyance of that Lot, and may be transferred only in connection with the conveyance of title of that Lot. The membership of the HOA at all times shall consist exclusively of all the Lot Owners or, following termination of the planned community, of all persons entitled to distributions of proceeds under G.S. 47F-2-118.<sup>1</sup>

<sup>1</sup> 47F-3-101 Organization of owners' association

## **Article IV. Membership Meetings:**

### **Section 4.01 Annual Membership Meetings:**

The annual meeting of the Owners shall be held in December at such date and time as shall be established by the Board of Directors, for the purpose of transacting any business authorized to be transacted by the Owners; provided however, if that day is a legal holiday, this meeting shall be held at the same hour on the next succeeding day.

### **Section 4.02 Substitute Annual Meeting:**

If the annual meeting of the Owners is not held as provided in Section 4.01, any business, including the election of Directors, which might properly have been acted upon at that meeting may be acted upon at any subsequent Owners meeting held pursuant to these Bylaws or to a court order requiring a substitute annual meeting.

### **Section 4.03 Special Meetings:**

Special meetings of the Owners may be called at any time by the president, a majority of the Board or by Owners having ten percent (10%) of the votes in the HOA.<sup>2</sup> Only those matters that are within the purpose or purposes described in such meeting's notice may be acted upon at a special meeting of members.<sup>3</sup>

### **Section 4.04 Notice & Waiver of Notice:**

Not less than 10 nor more than 60 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each lot or to any other mailing address designated in writing by the lot owner, or sent by electronic means, including by electronic mail over the Internet, to an electronic mailing address designated in writing by the lot owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer.<sup>4</sup> Proof of such mailings shall be given by the affidavit of the person giving the notice. Notice may be waived in the manner provided for in the "Waiver of Notice" provision set forth in the "Miscellaneous" Article of these Bylaws.<sup>5</sup>

### **Section 4.05 Quorum:**

The presence at the beginning of any meeting of Owners, entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the Votes in the HOA shall constitute a quorum for any action except as otherwise provided in the Instruments. In the event business cannot be conducted at any meeting because a quorum is not present, that meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy. Notwithstanding any provision to the contrary in the declaration or the bylaws, the quorum requirement at the next meeting shall be one-half of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.<sup>6</sup>

### **Section 4.06 Voting:**

If only one of the multiple owners of a lot is present at a meeting of the HOA, the owner who is present is entitled to cast all the votes allocated to that lot. If more than one of the multiple owners are present, the votes allocated to that lot may be cast only in accordance with the agreement of a majority in interest of the multiple owners. Majority agreement is conclusively presumed if any one of the multiple owners casts the votes allocated to that lot without protest being made promptly to the person presiding over the meeting by any of the other owners of the lot.<sup>7</sup> If such a protest is made, unless it is voluntarily withdrawn by the protester, or unless the protestor otherwise concedes that the protest is outweighed by a majority in interest of the multiple owners of the lot with respect to which the vote is cast, before the final counting of

<sup>2</sup> 47F-3-108(a) Meetings

<sup>3</sup> 55A-7-02(d) Special meeting

<sup>4</sup> 47F-3-108(a) Meetings

<sup>5</sup> 55A-7-06 Waiver of Notice

<sup>6</sup> 47F-3-109 Quorums

<sup>7</sup> 47F-3-110(a) Voting; proxies

votes cast on any particular matter, the vote with respect to which the protest is made shall not be counted for purposes of constituting a quorum or voting for or against any matter. No votes allocated to a lot owned by the HOA may be cast.<sup>8</sup>

Section 4.07 Proxies:

Votes allocated to a lot may be cast pursuant to a proxy duly executed by a lot owner. If a lot is owned by more than one person, each owner of the lot may vote or register protest to the casting of votes by the other owners of the lot through a duly executed proxy. A lot owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the HOA. A proxy is void if it is not dated. A proxy terminates eleven (11) months after its date, unless it specifies a shorter term.<sup>9</sup> All proxies shall be in writing and filed with the HOA Secretary prior to or at the commencement of any meeting. Every proxy shall be revocable and shall be deemed to automatically cease upon any conveyance of a lot by its Owner(s).

Section 4.08 Order of Business:

Unless the members otherwise determine in their sole discretion, the order of business at annual membership meetings, and, as far as practical at other membership meetings, shall be as follows:

- a. Calling of the roll of members and certification of proxies
- b. Proof of notice of meeting or waiver of notice by those present
- c. Reading and approval of any unapproved minutes
- d. Unfinished Business from previous meetings
- e. New Business
- f. Adjournment

Section 4.09 Conduct of Membership Meetings:

The President shall preside over all membership meetings. The Secretary shall keep a minute book with all resolutions adopted by the members, minutes of all meetings, and all written consents to actions taken without a meeting. Robert's Rules of Order Newly Revised (the most recently published edition) shall govern the conduct of the meeting except to the extent inconsistent herewith.<sup>10</sup>

Section 4.10 Adjournments:

Any membership meetings, whether or not a quorum is present, may be adjourned by a majority of the votes present in person or by proxy at the meeting to reconvene at a specific time and place. It shall not be necessary to give any notice of the reconvened meeting or of the business to be transacted, if the time and place of the reconvened meeting are announced at the meeting which was adjourned. Any business may be transacted which could have been transacted at the meeting which was adjourned, if a quorum is at the reconvened meeting.<sup>11</sup>

Section 4.11 Action of Owners without Meeting:

Any action which may be taken at a meeting of the members may be taken without a meeting if the action is taken by all members entitled to vote on the action. The action shall be evidenced by one or more written consents describing the action taken, signed before or after such action by all members entitled to vote thereon, and delivered to the corporation for inclusion in the minutes or filing with the corporate records. To the extent the corporation has agreed pursuant to G.S. 55A-1-70, a member's consent to action taken without a meeting may be in electronic form and delivered by electronic means. If not otherwise determined under G.S. 55A-7-03 or G.S. 55A-7-07, the record date for determining members entitled to take action without a meeting is the date the first member signs the consent. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.<sup>12</sup>

Section 4.12 Vote Required for Action:

Except as otherwise provided by the Act, the Nonprofit Corporation Act, in the Instruments or herein, the act of a Majority of the members at a meeting at which a quorum is present shall be the act of the members.

<sup>8</sup> 47F-3-110(d) Voting; proxies

<sup>9</sup> 47F-3-110(b) Voting; proxies.

<sup>10</sup> 47F-3-108(c) Meetings

<sup>11</sup> 47F-3-109 Quorums; and 55A-7-05(d) Notice of meeting

<sup>12</sup> 55A-7-04 Action by written consent

## **Article V. BOARD OF DIRECTORS, ELECTION & REMOVAL**

### **Section 5.01 Qualification & Nomination:**

Only HOA members may be Directors. Nomination for election to the Board shall be made by a nominating committee which shall consist of three (3) members appointed by the President. The nominating committee may nominate any number of qualified individuals, but no less than the number of Directors to be elected. Separate nominations shall be made for each seat on the Board for which a Director is to be elected. The nominations and the names of those on the nominating committee shall be included with the notice of the meeting. Nominations shall also be allowed from the floor at any meeting at which Director(s) elections are held prior to such elections.

### **Section 5.02 Election:**

Election to the Board of Directors shall be by written ballot. At such election the members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The member(s) receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted. The HOA shall publish the names and addresses of all board members of the HOA within 30 days of their election.<sup>13</sup>

### **Section 5.03 Number and Term of Office:**

The Board shall consist of three (3) Directors with each having a three (3) year term of office. Of the three (3) Directors, one (1) shall be the owner of a Unit, one (1) shall be the owner of a townhome, and one (1) shall be the owner of a Villa as described within the RMD. The Directors will be divided into three classes with the terms of one class expiring each year. Each Director shall serve until his term expires and his successor has been elected and qualified, subject to removal, disqualification, or resignation.

### **Section 5.04 Vacancies:**

A vacancy occurring on the Board may be filled by a majority of the Directors remaining in office though less than a quorum of the Board. A Director elected by the Board shall serve until the next annual meeting, at which time a Director shall be elected by the members to serve the remaining term, if any.

### **Section 5.05 Removal:**

Notwithstanding any provision of the declaration or bylaws to the contrary, the lot owners, by a majority vote of all persons present and entitled to vote at any meeting of the lot owners at which a quorum is present, may remove any member of the executive board with or without cause.<sup>14</sup> Removal action may be taken at any annual or special meeting with respect to which notice of such purpose has been given.<sup>15</sup> A removed Director's successor may be elected at the same meeting to serve the unexpired term thereof.

### **Section 5.06 Compensation:**

Directors shall not receive compensation for their services as Directors. A Director may serve the HOA in another capacity and receive compensation in such separate capacity, only if previously disclosed to and approved by the Board in writing.

## **Article VI. BOARD OF DIRECTORS MEETINGS**

### **Section 6.01 Place of Board Meetings:**

Directors may hold their meetings at any place within reasonable proximity to the Development as the Board may from time to time establish.

### **Section 6.02 Regular Board Meetings:**

Regular meetings of the Board shall be held at least once every three (3) months on a regular schedule established by the Board. At regular intervals, the Board meeting shall provide lot owners an opportunity to attend a portion of a Board meeting and to speak to the Board about their issues or concerns. The Board may place reasonable restrictions on the number of persons

<sup>13</sup> 47F-3-103(f) Executive board members and officers

<sup>14</sup> 47F-3-103(b) Executive board members and officers

<sup>15</sup> 55A-8-08(e) Removal of directors elected by members or directors

who speak on each side of an issue and may place reasonable time restrictions on persons who speak.<sup>16</sup>

**Section 6.03 Special Board Meetings:**

Special meetings of the Board may be called by the President, the Secretary, or by any two (2) Directors.

**Section 6.04 Notice & Waiver of Notice of Board Meetings:**

No notice shall be required for regularly scheduled Board meetings. Notice of each special meeting shall be given to each Director stating the time, place, and the purpose of the meeting. The notice shall be given by mail deposited at least five (5) days before the meeting or by telephone, telegram, cablegram or personal delivery at least three (3) days before the meeting. Notice by telegram or cablegram shall be deemed delivered at the time the notice is filed with the transmitting agency. Notice by telephone or personal delivery shall be deemed effective only when actually communicated to the Director. Notice may be waived in the manner provided for in the "Waiver of Notice" provision set forth in the "Miscellaneous" Article of these Bylaws.<sup>17</sup>

**Section 6.05 Quorum:**

A quorum shall be deemed present throughout any meeting of the Board when Directors entitled to cast a majority of the votes on the Board are present at the beginning of the meeting.

**Section 6.06 Voting:**

Except as otherwise provided by law, or in the Instruments, the act of a majority of the Directors present at any meeting at which a quorum is present at the time shall be the act of the Board. Each Director shall have one (1) single vote on the Board, regardless of the membership votes attributable to his or her lot(s).

**Section 6.07 Adjournments:**

Any meeting of the Board, whether or not a quorum is present, may be adjourned by a majority of the Directors present to reconvene at a specific time and place. It shall not be necessary to give notice of the reconvened meeting or other business to be transacted, other than by announcement at the meeting which was adjourned. Any business may be transacted which could have been transacted at the meeting which was adjourned, if a quorum is present at the reconvened meeting.

**Section 6.08 Action by Directors Without Meeting:**

Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if the action is taken by all members of the board. The action shall be evidenced by one or more written consents signed by each director before or after such action, describing the action taken, and included in the minutes or filed with the corporate records reflecting the action taken. To the extent the corporation has agreed pursuant to G.S. 55A-1-70, a director's consent to action taken without meeting may be in electronic form and delivered by electronic means. Action taken under this section is effective when the last director signs the consent, unless the consent specifies a different effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.<sup>18</sup>

**Section 6.09 Conduct of Meetings:**

The President shall preside over all meetings of the Board. The Secretary shall keep a minute book with all resolutions adopted by the Board, minutes of all meetings, and all written consents to actions taken without a meeting and proceedings occurring at such meetings. Robert's Rules of Order Newly Revised (the most recently published edition) shall govern the conduct of the meeting except to the extent inconsistent herewith.<sup>19</sup>

<sup>16</sup> 47F-3-108(b) Meetings

<sup>17</sup> 55A-8-23 Waiver of Notice

<sup>18</sup> 55A-8-21 Action without meeting

<sup>19</sup> 47F-3-108(c) Meetings

## **Article VII. POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

### **Section 7.01 Powers of the Board:**

The business and affairs of the HOA shall be managed by the Board acting as its executive board and in accordance with G.S. 47F-3-103:

- a. The executive board may act in all instances on behalf of the association except as otherwise provided in the declaration, these bylaws, subsection (b) of this section, or by other applicable law. In the performance of their duties, members of the Board shall discharge their duties in good faith, and shall act according to the standards for directors of a nonprofit corporation set forth in G.S. 55A-8-30.
- b. The Board may not act unilaterally on behalf of the HOA to amend the declaration (G.S. 47F-2-117), to terminate the planned community (G.S. 47F-2-118), or to elect members of the Board or determine the qualifications, powers and duties, or terms of office of Board members (G.S. 47F-3-103(e)), but the Board may unilaterally fill vacancies in its membership for the unexpired portion of any term.
- c. To the extent not prohibited by the Instruments or by applicable law, the Board shall have the non-exclusive power to exercise for the HOA all powers, duties and authority vested in or delegated to the HOA and not reserved to the membership, including but not limited to those powers of the HOA described within G.S. 47F-3-102;
- d. The Board shall have the power to declare the seat of any Director to be vacant in the event such Director is absent from three (3) consecutive regular meetings of the Board;

### **Section 7.02 Duties of the Board:**

By way of illustration and not by way of limitation, the following shall be non-exclusive duties of the Board:

- a. Supervise all officers, agents and employees of the HOA and to see that their duties are properly performed, and to cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- b. Issue, or cause an appropriate officer to issue, upon written request, shall furnish to a lot owner or the lot owner's authorized agents a statement setting forth the amount of unpaid assessments and other charges against a lot. The statement shall be furnished within 10 business days after receipt of the request and is binding on the association, the executive board, and every lot owner.<sup>20</sup> The Board may impose reasonable charges in connection with the preparation of any such statements.<sup>21</sup>;
- c. Within 30 days after adoption of any proposed budget for the planned community, the executive board shall provide to all the lot owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The executive board shall set a date for a meeting of the lot owners to consider ratification of the budget, such meeting to be held not less than 10 nor more than 60 days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting a majority of all the lot owners in the HOA or any larger vote specified in the declaration rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the lot owners shall be continued until such time as the lot owners ratify a subsequent budget proposed by the executive board;<sup>22</sup>
- d. Cause to be kept complete records of all its acts and corporate affairs in accordance with G.S. 47F-3-118 (Association Records) and in addition thereto, to present a statement of the corporations acts and affairs to the Owners at the annual meeting of the Owners and at any special meeting when such a statement is requested by one-fourth (1/4<sup>th</sup>) of the Owners entitled to vote thereat;
- e. To perform all other duties imposed upon the Board by the Instruments to the extent not prohibited by law;
- f. To procure and maintain all insurance coverage(s) as required pursuant to the Instruments and otherwise as required by law<sup>23</sup>, for the benefit of the HOA.

<sup>20</sup> 47F-3-118(b) Association Records

<sup>21</sup> 47F-3-102(13) Powers of owners' association

<sup>22</sup> 47F-3-103© Executive board members and officers

<sup>23</sup> 47F-3-113 Insurance

**Section 7.03** Committees of the Board of Directors:

The Board may designate from among its members an executive committee and one or more other committees, each consisting of at least two (2) Directors. Each committee shall have the authority set forth in the resolution establishing the committee.

**Article VIII. OFFICERS:****Section 8.01** Number:

The Officers of the Association shall consist of a President, one or more Vice President, as designated by the Board, a Secretary, a Treasurer, and one or more Assistant Secretaries, or Treasurers as designated by the Board. The Association shall not be required to have at any time any Officers other than a President, a Secretary and a Treasurer. The same person may hold more than one office, except for the offices of President and Secretary, but not person may act in more than one capacity where action of two or more officers is required.<sup>24</sup>

**Section 8.02** Election and Term:

All Officers shall be elected by the Board and shall serve at the pleasure of the Board. Only Directors shall qualify to hold the offices of President, Secretary and Treasurer.

**Section 8.03** Compensation:

Any compensation of Officers shall be fixed by the Board, subject to the approval of Owners having a Majority of Votes in the Association.

**Section 8.04** Resignation & Removal:

An officer may resign at any time by communicating his resignation to the corporation. A resignation is effective when it is communicated unless it specifies in writing a later effective date. If a resignation is made effective at a later date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date. A board of directors may remove any officer at any time with or without cause.

**Section 8.05** President:

The President shall be the chief executive officer of the Association and shall have responsibility for the general supervision of the business of the Association. He/She shall see that all orders and resolutions of the Board are carried into effect. The President shall perform such other duties as may from time to time be delegated to him by the Board. He/She shall have all the general powers and duties which are incident to the office of the President of a corporation organized under the North Carolina Nonprofit Corporation Act.

**Section 8.06** Vice Presidents:

The Vice President shall, in the absence or disability of the President, or at the direction of the President, have the duties and powers of the President. If the Association has more than one Vice President, the Board shall designate one of them to act for the President. Vice Presidents shall have whatever duties and powers the Board may from time to time assign.

**Section 8.07** Secretary:

The Secretary shall keep accurate and complete records of all meetings of Owners, Directors and committees of Directors, including minutes of the meetings all resolutions adopted and all consents to actions without a meeting. He/She shall have authority to give all notices required by law, the Instruments or these Bylaws. He/She shall be the custodian of the corporate books,, records, contracts and other documents. The Secretary may affix the corporate seal to any lawfully executed documents requiring it and shall sign such instruments as may require his signature. The Secretary shall have whatever additional duties and powers the Board may from time to time assign him or may be incident to the office of secretary of a corporation organized under the North Carolina Nonprofit Corporation Act.

<sup>24</sup> 55A-8-40(d)



**Section 8.08 Treasurer:**

The Treasurer shall have custody of all funds and securities belonging to the Association and shall receive, deposit or disburse the m under the direct of the Board. The Treasurer shall keep full and true accounts of all receipts and disbursements and shall make reports to the Board and President upon request.. He shall perform all duties as may be assigned to him from time to time by the Board. The Treasurer shall prepare or cause to be prepared all required financial statements, tax returns and budgets. If the Association employs a property manager, accountant, attorney or other agent, the duties may be delegated to the agent. However, the Treasurer shall remain responsible for supervising the agent.

**Section 8.09 Assistant Secretary and Assistant Treasurer:**

The Assistant Secretary and Assistant Treasurer shall, in the absence or disability of the Secretary or the Treasurer, respectively, have the duties and powers of those offices. They shall, in general, perform any other duties assigned to them by the Board. Specifically, the Assistant Secretary may affix the corporate seal to all necessary documents and attest the signature of any Officer.

**Section 8.10 Bonds:**

The Board may require any or all of the Officers, agents or employees of the Association to give bonds to the Association, with sufficient surety, conditioned on the faithful performance of the duties of their respective Officers or positions. In such event , the reasonable cost of some shall be borne by the Association.

**Section 8.11 Standard of Conduct:**

In the performance of their duties, officers shall discharge their duties in good faith and shall act according to the standards for officers of a nonprofit corporation set forth in G.S. 55A-8-42.<sup>25</sup>

**Article IX. MISCELLANEOUS:****Section 9.01 Fiscal Year:**

The fiscal year of the HOA shall begin on the first (1<sup>st</sup>) day of January and end on the thirty-first (31<sup>st</sup>) day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the HOA.

**Section 9.02 Seal:**

The corporate seal of the Association shall be in circular form having within its circumference the words: Bedford Place Homeowners' Association, Inc. – Corporate seal.

**Section 9.03 Inspection of Books and Records:**

All accounts, books and records of the Association, including the Instruments, shall be open to inspection by the Owners, Mortgagees and prospective purchasers during normal business hours, subject to such reasonable rules as the Board may establish.<sup>26</sup>

**Section 9.04 Indemnification:**

Each Director or Officer shall be indemnified by the HOA against those expenses which are allowed by the laws of North Carolina and which are reasonably incurred in connection with any action, suit or proceeding, whether completed, pending or threatened, in which such person may be involved by reason of his being or have been a Director or Officer. Indemnification shall be made only in accordance with the laws of North Carolina. The Association may purchase and maintain insurance on behalf of any such Officers and Directors against any liabilities asserted against them whether or not the Association would have the power to indemnify the Officers and Directors against the liability under the laws of North Carolina. If any expense or other amounts are paid by way of indemnification, other than by court order, by action of Owners or by an insurance carrier, the Association shall provide notice of such payment to the Owners in accordance with the laws of North Carolina.<sup>27</sup>

<sup>25</sup> 47F-3-103(a) Executive Board Members and Officers

<sup>26</sup> 47F-3-118 Association Records; 55A Article-16, Records and Reports

<sup>27</sup> 47F-3-102(14) Powers of owners' association; 55A Article 8, Part 5 Indemnification; and 55A-16-21 Notice of indemnification to members

**Section 9.05 Waiver of Notice:**

Whenever any notice is required to be given to any Owner or Director, a waiver signed by the Director or Owner entitled to such notice, whether before or after the meeting to which the waiver pertains, shall be deemed equivalent to proper notice. Attendance at a meeting, whether in person or by proxy, shall be a waiver of notice of the time and place unless specific objection to improper notice is made when the meeting is called to order. Attendance shall also be a waiver as to all business transacted, unless specific objection is made before the objectionable business is put to a vote.<sup>28</sup>

**Section 9.06 Amendment:**

These Bylaws may be amended at a regular or special meeting of the Owners, by the vote, in person, or by proxy, of a majority of the votes entitled to be cast on the amendment, provided notice to such amendment has been given in accordance with G.S. 55A-10-21.

**Section 9.07 Self-Dealing:**

Each Director and Officer and any property manager shall disclose in the written minutes of the Board any contract or agreement of any kind between the HOA and any person or entity to which is related by blood or marriage or in which he has an interest, whether direct or indirect.

**Section 9.08 Conflicts:**

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control. In the case of any conflict between these Bylaws and any Rules and Regulations, these Bylaws shall control.

**Section 9.09 Severability:**

Any and all portions of any provisions of these Bylaws which are prohibited, unenforceable, or otherwise not authorized in any jurisdiction shall, as to such portion(s) and jurisdiction(s) only, be deemed ineffective to the extent of such prohibition or unenforceability only, without invalidating or affecting the continuing validity and enforceability of the remaining portion(s) of any such provision(s).

**Section 9.10 Captions:**

The titles/captions/headings of any and all portions of these Bylaws are intended for convenience of reference purposes only, and shall not in any event whatsoever be deemed to affect the meaning or interpretation of these Bylaws.

**Section 9.11 Usage and Interpretation of Terms:**

The words or terms used in these Bylaws which are used in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter, and vice versa; words used in the singular number includes the plural, and the plural the singular; and the word "Person" without limiting the specific definition thereof provided herein, includes a corporation or other entity as well as a natural person.

**Section 9.12 Statutory References:**

All references herein to any statutory provision(s) shall be construed to include any subsequent amendments thereto or replacements thereof as may be validly enacted from time to time by the North Carolina General Assembly. All such statutes referred to herein shall be incorporated herein by specific reference thereto.

IN WITNESS WHEREOF, I, being the President of Bedford Place of Brevard Homeowner's Association, Inc. have hereunto set my hands this 25<sup>th</sup> day of February, 2015.

BEDFORD PLACE HOMEOWNER'S ASSOCIATION, INC.

BY: Alan C. Mercer

Alan Mercer, President of Homeowner's Association

<sup>28</sup> 55A-7-06 Waiver of notice (members); 55A-8-23 Waiver of notice (Directors)

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of the BEDFORD PLACE HOMEOWNERS' ASSOCIATION, INC., a non-profit, North Carolina Corporation, and,

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 27 day of January, 2015.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 9 day of February, 2015.

Pat M. Davis  
Secretary

*File Made*  
✓

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DECLARATION OF CONDOMINIUM,  
COVENANTS AND RESTRICTIONS  
FOR  
BEDFORD PLACE

Prepared By and Return To:

John E. Tate, Jr.  
Attorney At Law  
Suite C  
100 Chadwick Square Court  
Hendersonville, NC 28739

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DECLARATION OF CONDOMINIUM,  
COVENANTS AND RESTRICTIONS

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DECLARATION OF CONDOMINIUM,  
COVENANTS AND RESTRICTIONS  
FOR  
BEDFORD PLACE

THIS DECLARATION, is made as of the 20<sup>th</sup> day of March, 2002, by BEDFORD PLACE, LLC, a North Carolina Limited Liability Company, Suite C, 101 Chadwick Square Court, Hendersonville, North Carolina, 28739 (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the Owner of the Development, as hereinafter set forth, and desires to make, execute and declare this Declaration Of Condominium, Covenants And Restrictions For Bedford Place.

NOW, THEREFORE, the undersigned hereby makes this Declaration for the purposes and subject to all the terms and provisions hereinafter set forth, by the execution hereof

ARTICLE I

DEFINITIONS

1.1 Definitions. The terms defined below shall be deemed to have the meanings specified whenever they appear in this Declaration, unless the context otherwise requires. These definitions shall apply whether or not the defined terms are capitalized. All terms defined in the Acts, shall have the same meaning as contained in the Acts and similar terms contained herein, as contained in the Acts, shall have the same meaning as contained in the Acts, when the context so requires.

"Acts" means the Community Act and the Condominium Act. References herein to the "Acts" shall mean one or the other or both, as the context requires, and for purposes hereof in the event of a conflict, the Community Act shall control with respect to the portion of the Development other than the Condominium and the Condominium Act should control with respect to the Condominium.

"Additional Property" means such additional tracts or parcels of land which are submitted to this Declaration by the Declarant pursuant to an Instrument recorded in the Office of the Register Of Deeds of Transylvania County, North Carolina containing provisions indicating the intention of Declarant to subject such Additional Property to the provisions of this Declaration.

"Additional Units" mean one or more units, which may be added to the Condominium in accordance with the provisions of this Declaration and the Act, as that term is hereinafter defined. At such time as any of the Additional Units is added to the Condominium, the interest in the Common Areas and



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Facilities, Limited Common Areas and Facilities, Votes in the Association and liability for Common Expenses shall be adjusted and reallocated in accordance with the provisions of Section 3.8 hereinafter. For purposes hereof, Additional Units shall mean and include Unit 10 as shown on the Plans which Unit has not been constructed to date and such Additional Units as may be added by subdividing existing Units, pursuant to the provisions of Sections 3.1, 3.6 and 3.7.

"Articles of Incorporation" means the articles of incorporation of the Association, as amended from time to time, a copy of the initial Articles of Incorporation being attached to this Declaration.

"Assessment" means the share of the Common Expenses from time to time assessed against a Lot or Units and its Owner by the Association in the manner herein provided.

"Association" means the Bedford Place of Brevard Homeowners' Association, Inc., a North Carolina Non-Profit Corporation formed for the purpose of exercising the powers of the Association under the Instruments and the Act. The Association shall possess all the powers and have all the responsibilities as provided in Article 3 of the Community Act and the Condominium Act, in addition to those provided herein.

"Board of Directors" or "Board" means the executive board of directors of the Association, which is the governing body of the Association, which shall have the authority to act on behalf of the Association.

"Bylaws" means the bylaws of the Association, as amended from time to time, a copy of the initial Bylaws being attached to the Instruments.

"Common Areas And Facilities" means all portions of the Development other than the Lots or Units and shall have the same meaning as the term "common elements" as that term is defined in the Act.

"Common Expenses" means all sums lawfully assessed against the Owners by the Association; ad valorem taxes, public assessments or governmental liens, if any, levied on Common Areas and Facilities; expenses of administration, maintenance, repair or replacement of the Common Areas and Facilities; expenses agreed upon as Common Expenses by the Association; expenses declared Common Expenses by this Declaration or the Bylaws together with any such expenditures by permitted or required by the Acts; and, insurance premiums.

"Community Act" shall mean the North Carolina Planned Community Act, which is Chapter 47F of the North Carolina General Statutes, as amended.

"Condominium" means the Submitted Property, as it may exist from time to time, submitted to the provisions of the Condominium Act by the Instruments.

"Condominium Act" shall mean the North Carolina Condominium Act, which is Chapter 47C of the North Carolina General Statutes, as amended.

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"Condominium Unit" means a Unit together with the undivided interest in the Common Areas and Facilities appertaining to that Unit.

"Declarant" means initially Bedford Place, LLC, a North Carolina Limited Liability Company, the fee simple owner of the Development, which has executed this Declaration.

"Declaration" means this Declaration, as amended from time to time, referred to herein as the "Declaration".

"Development" means the property described on Exhibit A and being all of the property, which is currently subject to the Declaration.

"Development Rights" means the right to make this Condominium an Expandable Condominium as further defined in the Act.

"Director" means a member of the Board of Directors.

"Expandable Condominium" means a condominium to which Additional Units may be added and made subject to the Condominium Act and this Declaration, and this Condominium is an Expandable Condominium.

"First Mortgagee" means the holder of a first-in-priority Mortgage.

"Foreclosure" includes, without limitation, the judicial foreclosure of a Mortgage or the exercise of a power of sale contained in any Mortgage.

"Institutional Mortgagee" means one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts, including, but not limited to, real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such a lender, or any combination of any of the foregoing entities.

"Instruments" means this Declaration, the Articles of Incorporation, the Bylaws, the Plans and the Plat, including any and all exhibits, schedules, certifications, and amendments thereof, as they may exist from time to time, made and recorded with respect to the Development.

"Lease" means any lease, usufruct, tenancy, sublease, rental contract, or other occupancy agreement whether oral or written.

"Lot" means a physical portion of the Development designed for separate ownership or occupancy by a Lot Owner and shall initially include the Lots as described in Article 3.

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"Lot Designation" means one or more numbers and/or letters that identify each Lot, as set forth in the Schedule Of Lot Information, and as shown on the Plat and the Plan.

"Lot Owner" has the same meaning as Owner, when the context so requires, and means one or more persons, including Declarant, who owns a Lot. This term does not include a Mortgagee in his capacity as such.

"Majority" means more than fifty percent (50%) in any context, unless a different percentage is expressly required.

"Mortgagee" means the holder, guarantor, insurer of a Mortgage or a beneficiary under a Deed of Trust.

"Occupant" means any person, including, without limitation, any guest, customer, invitee, tenant, lessee or licensee of an Owner, occupying or otherwise using or visiting in a Unit or in a dwelling located on a Lot.

"Officer" means an officer of the Association.

"Owner" has the same meaning as Lot Owner or a Unit Owner and includes all of such owners when the context requires.

"Person" means a natural person, corporation, business trust, estate, joint venture, partnership, association, trust or other legal entity, or any combination thereof.

"Plans" means the plans for the Condominium which are certified and filed for record, as amended and certified from time to time.

"Plats" means the plats of survey of the Development or portions thereof, which is certified and recorded, as amended and certified from time to time. "Plats" shall include Plats of survey showing any or all portions of the Development as recorded from time to time.

"Record" or "file for record" means filing for record in the Office of the Register of Deeds, Transylvania County, North Carolina.

"Schedule of Lot or Unit Information" means the schedule attached hereto as Exhibit C, which schedule shows for each Lot and Unit, its Identifying Number, Size and Allocated Interests in the Common Areas and Facilities, number of Votes in the Association, and share of liability (Allocated Interest in the) for Common Expenses.

"Size" means the number of square feet of heated, enclosed floor space in a Unit and square footage or acreage, as the case may be, of a Lot as computed by reference to the Plat and Plans and rounded off to a whole number.

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"Submitted Property" means the property lawfully submitted to the provisions of the Condominium Act from time to time by the recordation of Instruments in accordance with the Condominium Act. The Submitted Property is the land described in Exhibit B and shown on the Plat, together with all improvements thereon and all rights and easements appurtenant thereto. It is not intended that all of the Development be Submitted Property, it being the intention that a portion of the property shall be submitted to the Condominium Act and shall be and constitute condominiums as is contemplated by the Condominium Act, with the remainder of such property, to be subject to the covenants and restrictions of the Declaration and various other aspects thereof, but not to be held as Condominium Units under the Condominium Act.

"Unit" means a portion of the Condominium intended for independent ownership and use, as more fully set forth and shown in the Instruments and the Condominium Act.

"Unit Designation" means one or more numbers and/or letters that identify each Unit, as set forth in the Schedule of Unit And Lot Information, and as shown on the Plat and the Plans.

"Unit Owner" has the same meaning as Owner, when the context so requires, and means one or more persons, including Declarant, who owns a Condominium Unit, but shall not include a Lot Owner as that term is defined above. This term does not include a Mortgagee in his capacity as such.

"Vote" means the weight of the vote for each Lot or Unit in the Association as set forth in Section 3.9.

## ARTICLE 2

### DECLARATION OF COVENANTS AND RESTRICTIONS

2.1 Submission to this Declaration. Declarant hereby submits the Development to this Declaration. The Development and every interest therein shall, after the recording of this Declaration, be owned, held, transferred, sold, conveyed, used, leased, occupied, mortgaged, and deeded in trust subject to this Declaration. Every person acquiring or having an interest in the Development, by acceptance of a deed or other instrument of any kind, whether or not such deed or other instrument is signed by such person or otherwise agreed in writing, shall take such interest subject to the Instruments and shall be deemed to have agreed to the same.

2.2 Name and Location. The name of the Development is "Bedford Place". The Development is located in Transylvania County, North Carolina.

2.3 Submitted Property. The Declarant herewith submits the Submitted Property described on Exhibit B to the Condominium Act and declares that all such Submitted Property shall be governed by the provision of the Condominium Act and this Declaration, to the extent applicable.

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2.4 Governing Provisions. The Development, the Association, and each Owner shall be governed by the Instruments and any rules and regulations adopted by the Association pursuant to the Instruments.

ARTICLE 3

DESCRIPTION OF THE DEVELOPMENT

3.1 Development.

The Development is described on Exhibit A and shown on the Plats, and includes all improvements thereon and all rights and easements appurtenant thereto. The Development is expected to consist of a Condominium as defined herein consisting of twenty four (24) Units, as well as twenty seven (27) single family Lots, all as more particularly shown on the Plats and Plans (with respect to the Condominium only). Notwithstanding the foregoing, Declarant reserves the right to change the number of each type of such Lot or Unit, alter the boundary lines of each Lot or Unit still owned by Declarant and otherwise change and alter the location of the Common Areas And Facilities. In such event, Declarant may alter the undivided interests as provided in the Schedule of Lot or Unit Information in accordance with the provisions hereof. In such event, Declarant reserves the right at anytime, and regardless of whether Declarant owns a sufficient number of Lots to allow or permit Declarant under the provisions of Article 11 of this Declaration or under Section 47F-2-117 of the Community Act or Section 47C-2-110 of the Condominium Act, to record an appropriate amendment to this Declaration, reflecting such change or alteration.

The Submitted Property is described on Exhibit B and shown on the Plat, and it includes all improvements thereon and all rights and easements appurtenant thereto. The improvements include Units, which are contained within six (6) separate two (2) story buildings, roads, parking areas, sidewalks, utilities and landscaping. The Condominium is also an Expandable Condominium, with Declarant having reserved the right to expand the Condominium by adding all or part of the Additional Units. At such time as all or any part of the Additional Units are lawfully added to the Condominium, the portion so added shall be included within the Submitted Property.

3.2 Lots, Condominium Unit.

The Condominium currently contains Units, the Identifying Numbers of which are set out on the Schedule of Lot And Unit Information and are shown on the Plat and Plans. Each Condominium Unit consist of the Unit, together with its undivided interest in the Common Areas And Facilities. The interior layout of the Units shall be designed in accordance with the desires and needs of each Unit Owner in terms of interior design, arrangement, configuration, and finish. The sole constraint imposed as to the configuration of any Unit shall be fixed by the perimeter floor plan set forth for each Unit in the Plans. At the time the Submitted Property is made subject to the Declaration certain of the Units may not of been fashioned into finished Condominium Units, but when finished, each Condominium Unit shall have a perimeter floor plan as shown on the Plans, with the interior layout varying depending upon the particular Unit. Due to differences in needs and styles, the interior walls located in each Unit shall differ in

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accordance with the desires of the Owner thereof. Declarant, so long as it is the Owner of a particular Unit, and each successor Owner thereof, shall have the right and option to change the initial interior design and arrangement of such Unit, so long as no portion of any load bearing wall or column is materially weakened or removed and no portion of any Common Areas And Facilities is damaged, destroyed or endangered. The Schedule Of Lot And Unit Information sets forth for each Unit its Identifying Number, Size, and undivided interest in the Common Areas And Facilities, Votes in the Association, and share of liability for Common Expenses. These Condominium Units shall constitute for all purposes a separate parcel of real property, which may be owned in fee simple in which subject to the provisions of the Condominium Act in the Instruments may be conveyed and encumbered like any other property. The undivided interest in the Common Areas And Facilities for each Condominium Unit shall not be altered except as expressly provided by the Condominium Act and in this Declaration. Such undivided interest shall not be separated from the Unit, by which it appertains and shall be deemed to be conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instruments. Each Unit Owner shall automatically be a member of the Association, which membership shall continue during the period of ownership of the Unit by such Owner.

The Lots shall be the single family lots as shown on the Plats consisting of Lot Numbers 1 through 27 and shall be intended for the construction thereon of one (1) single family residence in accordance with the provisions hereof. The Schedule of Lot and Unit Information contains the Identifying Numbers of each Lot and its undivided interest in Common Areas And Facilities.

3.3 Unit Boundaries. Each Unit shall include all the space within the boundaries thereof. The parametrical or vertical boundaries of each Unit are the vertical planes of the interior surfaces of the framing of the walls of the Unit, whether such walls are exterior walls or the walls separating the Unit from other Units or the Common Areas and Facilities, and the vertical planes are the exterior surfaces of windows and entry doors, including sliding glass doors. Interior walls placed within the boundaries of each Unit shall constitute a portion of such Unit. The parametrical Unit boundaries include the sheet rock on the Unit side of the walls, with the framing being a part of the Limited Common Areas and Facilities, and they are extended to their intersections with each other and the upper and lower horizontal boundaries of the Unit. The lower horizontal boundary of each Unit is the plane of the upper surface of the concrete or framed sub-floor of the Unit, and the upper horizontal boundary of each Unit includes the wood, dry-wall, plaster or other material forming the ceiling or floor, as may be applicable, on the Unit side of such concrete sub-floor or framing, as the case may be, and extends to their intersections with the parametrical boundaries of the Units. Window screens and all fixtures, equipment and appliances located within the boundaries of each Unit, including, without limitation, portions of the heating and air conditioning system and the hot water heater, are deemed to be a part of each Unit. The entrance foyer, lobby, stairways, hallways, elevators or steps, if any, serving Units but located outside the boundaries thereof are Limited Common Areas and Facilities. If any chutes, flues, ducts, conduits, wires, pipes or any other apparatus lies partially within and partially outside of the designated boundaries of a Unit, any portions thereof which serve only that Unit shall be deemed a Limited Common Area And Facility of that Unit, while any portions thereof which serve more than one Unit or any portion of the Common Areas And Facilities shall be deemed a part of the Common Areas And Facilities serving all of the Units in that building. In interpreting the Plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in

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substantial accordance with the original Plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any Plat or Plans, regardless of settling or lateral movement of the building and regardless of minor variance between the boundaries shown on the Plans or in a deed and those of the Unit. If an Owner acquires an adjoining Unit, thereby becoming the common Owner of adjoining Units, such Owner shall have the right (subject to the prior written approval of the Mortgagees of the Units involved) to remove all or any part of any intervening partition or to create doorways or other apertures therein, notwithstanding the fact that such partition may, in whole or in part, be part of the Limited Common Areas And Facilities, so long as no portion of any load bearing wall or column is materially weakened or removed and no portion of any Common Areas and Facilities, other than that partition and any chutes, flues, ducts, conduits, wires or other apparatus contained therein which shall be relocated by such Owner if such facilities serve any other part of the Condominium, is damaged, destroyed, or endangered. The alterations permitted by the preceding sentence shall not be deemed an alteration or relocation of boundaries between adjoining Units.

3.4 Common Areas and Facilities. The Common Areas and Facilities consist of all portions of the Development other than Lots or Units. Certain portions of the Common Areas And Facilities are Limited Common Areas And Facilities, as set out in Section 3.5.

3.5 Limited Common Areas and Facilities. The Limited Common Areas and Facilities are those portions of the Common Area and Facilities which are reserved for the exclusive use of those persons who are entitled to the use of one or more (but less than all) of the Units or Lots. The roads, drives, and parking areas located throughout the Submitted Property, regardless of where located, shall be Common Areas and Facilities allocated among all of the Units or Lots located throughout the Development, except that, notwithstanding anything herein to the contrary the parking area(s) in front of the garages, if any, and for each unit, and any drive leading only and directly thereto, shall be a Limited Common Area And Facility allocated to such Unit. Limited Common Areas and Facilities are not separate and apart from the Common Areas and Facilities in general, but are limited only with respect to the exclusive use thereof by the Unit or Units or Lot or Lots to which they are assigned. Limited Common Areas and Facilities are further assigned as follows:

3.5.1 The entrance, foyer, lobby, hallway, steps, elevator or stairway, together with any enclosure therefor, which is appurtenant to each Unit or Units having any of the foregoing shall be a Limited Common Area and Facility assigned to the Unit or Units having direct access thereto. If a walkway, steps, stairway, hallway, elevator, or other means of access to the door of a Unit is designed to serve one or more (but less than all) of the Units, then it shall be a Limited Common Area and Facilities appurtenant to the Unit or Units so served.

3.6 Expansion of the Condominium to Add Additional Units. Declarant reserves the option to expand the Condominium by adding Additional Units to the Condominium on one or more occasions as provided in Section 3.7. There are no limitations on this option, and the consent of any Owners or Mortgagees shall not be required. As consideration for the option to expand the Condominium to add Additional Units, Declarant hereby imposes a covenant upon the Additional Units, which requires that the Additional Units shall be maintained in a neat, orderly, condition. If construction shall be commenced to

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add such Additional Units, if ever, such construction shall be accomplished in a manner such as to cause as little damage and destruction to the Condominium as is possible and, in the event any damage is caused to the Condominium by such construction, it shall be repaired immediately by Declarant. Except for zoning and other governmental requirements, there are no limitations as to the location of Additional Units. The Additional Units may be added as a whole at one time or in one or more portions at different times; provided, however, Declarant reserves the right and option, pursuant to Section 47C-2-102(a)(8) of the Condominium Act, to withdraw all or a portion of the Additional Units not currently existing from the effect of this Declaration and the Act and accordingly, as to the Additional Units, the Additional Units proposed thereon **NEED NOT BE BUILT** as that term is defined in the Act. This right and option of Declarant shall be transferable. The boundaries of the portions, which may be added are not fixed hereby, and no limitations are imposed on how they shall be fixed. This option shall expire twenty (20) years from the date of recording this Declaration. There is no limitation on the maximum number of Additional Units, which may be created and added to the Condominium. The Additional Units (or any portion thereof) shall be subject to the use restrictions set forth herein when it is added to the Condominium. All Units and Lots shall be restricted to residential use as set forth in Section 10.3. The structures created as the Additional Units shall be compatible with the structures on the Submitted Property in terms of the general quality of construction and shall be aesthetically compatible, specifically including the use of exterior and roof substantially similar in appearance to the structures on the Submitted Property. The Declarant shall have the right to assign Limited Common Areas And Facilities to the Additional Units in accordance with the provisions of Section 3.6 hereof. In the event Declarant exercises the option to expand which is reserved herein, Declarant does not intend to duplicate any portions of the Common Areas And Facilities currently in existence, but by virtue of the aforementioned reallocation, the undivided interests in the Common Areas and Facilities and Limited Common Areas And Facilities will thereby be reduced as well as reducing the weight of Votes in the Association and percentage of liability for Common Expenses. Any expansion under this Section shall be effected by Declarant's executing and recording an amendment to this Declaration, the Plats and Plans required by the Act, at Declarant's sole expense, which can be done only when the improvements or the Additional Units being added are substantially complete. Any such amendment shall be effective against all Owners and Mortgagees as of the time of its recording, notwithstanding when such Owners and Mortgagees acquired their interest in any Condominium Unit. The Condominium Units thereby created and added shall be owned by Declarant, but the Common Areas and Facilities and the Limited Common Areas and Facilities thereby created shall be allocated among the Unit Owners located within the Submitted Property and Lot owners within the Development in accordance with the amendment adding same. Except as expressly set forth herein, the Declarant's option to expand the Condominium by including Additional Units shall not be limited in any other respect.

3.7 Increase of Number of Condominium Units. As of the recordation of this Declaration the Submitted Property includes twenty-four (24) Units, being those set forth on Exhibit C attached hereto as Units 1 - 24. Declarant reserves the option to expand by adding Additional Units to the Condominium by subdivision of such Units on one or more occasions. There are no limitations on this option, and the consent of any Owners or Mortgagees, other than a Mortgagee of such Units, shall not be required. Except for zoning and other governmental requirements, there are no limitations as to the size of Units so added; provided, however, certain portions of each floor within such building have been designated as Limited Common Areas and Facilities so as to provide sufficient access within the building between floors. The



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interior layout of the Units so added shall be designed in accordance with the desires and needs of each Owner in terms of interior design, arrangement, configuration of finish. The sole constraint imposed as to the configuration of the interior of any Unit shall be fixed by the perimeter floor plan of the building which is set forth in the Plans. This right and option of Declarant shall be transferable and appurtenant to the ownership of such Units, or any portion thereof remaining after subdivision and specifically, but without limiting the generality of the foregoing, shall be transferable to any party obtaining title thereto as a result of foreclosure or upon receipt of a deed in lieu of foreclosure. The boundaries of the Units, which may be added pursuant hereto are not fixed, except by the constraints imposed by the perimeter floor plan of such building, and no other limitations are imposed on how they shall be fixed. There is no limitation on the number of Units, which may be created within such Units. The Units so added shall be subject to the use restrictions set forth herein when they are added to the Condominium. All such Units shall be restricted to single family residential use as set forth in Section 10.3. The Units created by subdividing such Unit shall be compatible with the other Units in terms of the general quality of construction. The Declarant shall have the right to assign Limited Common Areas and Facilities to such Units in accordance with the provisions of Section 3.6 hereof. The undivided interest in the Common Areas and Facilities, Limited Common Areas and Facilities, Votes in the Association, and liability for Common Expenses shall be allocated among the Condominium Units added pursuant hereto in the same manner as set forth in Section 3.8 hereof. In the event Declarant exercises the option to subdivide such Units reserved herein, Declarant does not intend to duplicate any portions of the Common Areas and Facilities currently in existence. All real estate taxes then due and payable on the Units so added must be paid and prorated. Any increase in the number of Units under this Section shall be effected by Declarant's executing and recording the amendments to this Declaration and the Plans required by the Act, at Declarant's sole expense. Any such amendment shall be effective against all Owners and Mortgagees as of the time of its recording, notwithstanding when such Owners and Mortgagees acquired their interest in any Condominium Unit. The Condominium Units thereby created shall be owned by Declarant, but the Limited Common Areas and Facilities thereby created, if any, shall be allocated among the Owners located within the Submitted Property in accordance with the amendment adding same. Except as expressly set forth herein, the Declarant's option to add Units which shall be created by subdividing such Units shall not be limited in any other respect. Liability for Common Expenses, undivided interests in the Common Areas and Facilities shall be allocated to such Units in accordance with the provisions of Section 3.9 hereof, less any portions thereof which may be designated as Limited Common Areas and Facilities on the Plans and, as additional Units are created by subdivision as aforesaid, such shall be reallocated among the Units then in existence on the same basis.

3.8 Increase of Size of Development. As of the recordation of this Declaration it is contemplated that the Development will contain fifty-one (51) Lots or Units, consisting of twenty four (24) Condominium Units and twenty-seven (27) single family zero lot line homes being those set forth on Exhibit C. In addition to the right, as reserved in Section 3.1 to change the number and type of Lots as contained in the Development, and to alter the size, location and improvements located on the Common Areas And Facilities, the Declarant further reserves the right to add Additional Property to the Development by filing an appropriate instrument in the Office of the Register Of Deeds of Transylvania County, North Carolina subjecting such Additional Property to the terms and provisions of this Declaration, regardless of whether at such time Declarant shall own a sufficient number of Lots to permit it

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to amend this Declaration pursuant to the provisions of Article 11 of this Declaration or Sections 47F-2-117 of the Community Act or Section 47C-2-110 of the Condominium Act, reflecting such change or alteration. In the event that the Declarant shall exercise any of the rights contained herein, either to alter the size and location of the Lots or Units or to add Additional Property, then the undivided interests in the Common Areas And Facilities shall be altered either in the Development or the Additional Property, as the case may be, and Declarant shall record an appropriate instrument adjusting such Allocated Interests as are described on Exhibit C attached hereto. Further, Declarant shall be absolutely and completely absolved and relieved from any liability or responsibility with respect to any determination of the appropriate Allocated Interests, Votes in the Association, and liability for (Allocated Interests in) Common Expenses in conjunction therewith, so long as Declarant exercise such discretion in good faith.

3.9 Allocation of Interests in Common Areas and Facilities. The Allocated Interests in the Common Areas And Facilities, Votes in the Association, and liability for (Allocated Interests in) Common Expenses are allocated among the Lots or Units located within the Development as follows: the undivided interests in the Common Areas And Facilities, Votes in the Association and liability for Common Expenses, shall be allocated among the Lots or Units located within the Development in proportion to the approximate percentage of the fair market value of the each such Lot or Unit, including the structures constructed or to be constructed thereon, bears to the aggregate fair market value of all of the Lots and Units, together with the structures constructed or to be constructed thereon within the Development, all as shown on Exhibit C attached hereto, except that with respect to lawn maintenance and exterior and structural maintenance, the liability for Common Expenses as allocated between and among the Condominium Units shall be modified as provided and footnoted on Exhibit B. In the event that Declarant shall exercise the right to subject Additional Property to the terms and provisions of this Declaration as described in Section 3.4 hereinabove, Declarant shall allocate the Allocated Interest in the Common Areas And Facilities, as described in the immediate preceding sentence. Votes in the Association and liability for (Allocated Interests in) Common Expenses in accordance with such proportion as adjusted for lawn maintenance and structural and exterior repair as provided on Exhibit C.

#### ARTICLE 4

#### EASEMENTS

In addition to the easements created and shown by the Plat, the easements described in this Article 4 from each Owner to each Owner, to the Association and to the Declarant are hereby granted, reserved and established, subject to and in accordance with the following terms and conditions:

4.1 Use and Enjoyment. Every Owner and Occupant shall have a right and easement of use and enjoyment in and to the Common Areas and Facilities located throughout the Development (including the right to access, ingress, and egress to and from his Lot or Unit over those portions of the Common Areas and Facilities designated for such purpose), and such easement shall be appurtenant to and shall pass with the title to every Lot or Unit, subject to the following provisions and limitations:

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4.1.1 The right of the Association to control the use and enjoyment thereof as provided by the terms of this Declaration, which shall include, but not be limited to, the right of the Association to limit the use and enjoyment thereof to the Owners and their respective Occupants, as well as to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner and his Occupants.

4.1.2 The right of the Association to suspend the Vote of an Owner for any period of time during which an Assessment against his Lot or Unit remains unpaid or for a reasonable time for infraction of any provision of the Instruments or rules and regulations.

4.2 Utilities. To the extent that any utility line, pipe, wire, or conduit serving any Lot, Lots, Unit or Units or the Common Areas and Facilities shall lie wholly or partially within the boundaries of another Lot or Unit or the Common Areas and Facilities, such other Lot, Lots, Unit or Units or the Common Areas and Facilities shall be burdened with an easement for the use, maintenance, repair and replacement of such utility line, pipe, wire or conduit, such easement to be in favor of the Lot, Lots, Unit or Units or Common Areas and Facilities served by the same and the Association. There is hereby further reserved unto Declarant, its successors and assigns, unto the Association, its successors and assigns and unto any public or quasi-public utility providing utility services to any portion of the Development, a non exclusive privilege and easement, under and through such Lot line a strip or tract of land five feet (5') in width immediately adjacent to all Lot line (except such portion of any such Lot on which is initially constructed immediately adjacent to a residential structure by Declarant) for the purposes of installing, maintaining and repairing lines, pipes, conduit, equipment or facilities for the purpose of providing one or more utility services to one or more portions of the Development.

4.3 Encroachments. If any portion of the Common Areas and Facilities encroaches upon any Lot or Unit, or if any Lot or Unit encroaches upon any other Lot or Unit or upon any portion of the Common Areas and Facilities, as a result of the construction, reconstruction, repair, renovation or restoration of any portion of the Development by Declarant, an easement for the encroachment and for the maintenance, repair, and replacement thereof shall exist so long as the encroachment exists.

4.4 Maintenance and Repair; Overhangs. There shall be an easement in favor of the Declarant, the Association and the Owners through, under and across the Lots or Units, and the Common Areas And Facilities as may be reasonably necessary for the installation, maintenance, repair and replacement of Common Areas And Facilities. Declarant, the Association and each such Owner may assign to any public or-quasi-public utility some or all of the rights granted herein. Use of this easement shall be only upon prior notice during normal business hours, except that access may be had at any time in case of emergency. There is also reserved unto the Owner of each Lot an easement over and across a strip or tract of land five (5') feet in width and immediately adjacent to the Lot line of any Lot in which a dwelling is immediately abutting (zero lot line) for the purpose allowing overhangs to encroach, and for purposes of drainage and maintenance and repair of any dwellings, together with the right of ingress, egress and regress for such purpose.

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4.5 Rights of Association. There shall be a general easement to the Association, its Directors, Officers, contractors, agents, and employees (including, but not limited to, any manager employed by the Association) to enter upon the Development, or any portion thereof and to enter or take access through the Lots or Units, and the Common Areas And Facilities as may be reasonably necessary for the installation, maintenance, repair and replacement thereof, for making emergency repairs and for other work for the proper maintenance and operation of the Development and for the performance of their respective duties. Each Owner shall afford to other Owners and to the Association, their respective contractors, agents, representatives, and employees, such access through such Lot or Unit as may be reasonably necessary to enable them to perform such work and to exercise and discharge their respective powers and responsibilities. Except in the event of emergencies however, such easements are to be exercised only during normal business hours and upon advance notice to and with the permission of the Owner or Occupant of a Lot directly affected thereby. The Association shall have the power to grant and accept permits, licenses and easements on, over, across and through the Common Areas And Facilities for the installation, maintenance or operation of the Development. An easement is hereby established for the benefit of the County of Transylvania, City of Brevard, and any agency or utility performing any of the following services over, across and through all Common Areas And Facilities for the setting, removal, and reading of water and electricity meters, the maintenance and replacement of water, electricity, sewer, cable, natural gas and drainage facilities. In addition thereto, an easement is hereby established over all of the Development for the benefit of the County of Transylvania, City of Brevard, and all other agencies and personnel performing any of the following duties and services for the fighting of fire, mail delivery, private parcel delivery, collection of garbage, ambulance services, and police protection.

4.6 Rights of Declarant. So long as Declarant owns any Lot or Unit primarily for the purpose of sale, Declarant and its duly authorized contractors, representatives, agents and employees shall have a transferable easement for the maintenance of signs, a sales office, a business office, promotional facilities and models the Development, together with such other facilities as in the opinion of the Declarant may be reasonably required, convenient, or incidental to the completion, renovation, improvement, development or sale of Lots or Units or dwellings on Lots or Units within the Development. The Declarant may use any Lots for models and/or sales offices, or dwellings on Lots or Units within the Development, which Lots or Units may be changed from time to time. During the period that Declarant owns any Lot or Unit, Declarant, its duly authorized contractors, representatives, agents and employees, shall have a transferable easement on, over, through, under and across the Common Areas and Facilities for the purpose of making improvements on the Development and the Additional Property, and for the purpose of doing all things reasonably necessary and proper in connection therewith. In exercising the easements reserved by Declarant in this Section 4.6, Declarant shall cause as little interruption and inconvenience as possible under the circumstances and further, Declarant shall remove any construction debris and repair any damage or unsightly conditions within a reasonable time.

4.7 Expansion. In the event Declarant exercises the option to expand set forth in Section 3.4, Declarant, its contractors, agents and employees, shall have an easement over and through the Lots or Units, and the Common Areas and Facilities as may be reasonably necessary for the purpose of exercising such options to expand and for constructing the improvements thereon.

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ARTICLE 5

MAINTENANCE AND REPAIR

5.1 Association. The Association shall maintain, repair and replace all portions of the Common Areas and Facilities, except as may be herein otherwise specifically provided. Further, the Association shall maintain the lawn and landscaping in the Common Areas And Facilities installed by Declarant, or by an Owner, with approval of Declarant, or after the expiration of the Declarant Control Period, with approval of the Association. Further, the Association shall maintain, repair and replace the structural and exterior portion of the Units. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, order or directive of any municipal or other governmental authority. The Association shall have all of the responsibilities as provided in G.S. §47F-3-107 of the Act with respect to maintenance, repair or replacement of the Common Areas And Facilities.

5.2 Lot Owner. Except as provided in Section 5.1 above, each Lot Owner shall maintain, repair and replace all portions of his Lot, including the dwelling unit located thereon, except those portions, if any, as have been subjected to use by the Association for the benefit of exercising one or more of the Easements contained hereinabove. In no event shall the Association have any responsibility for maintaining any portion of the Lot except as specifically provided herein, except, that in the event that any Lot Owner shall fail to maintain any portion of his Lot so as to render same in substantial disrepair, the Association shall have the right, after reasonable notice to such Lot Owner, to go upon such property and maintain same.

ARTICLE 6

ASSESSMENTS

6.1 Lien. Each Owner covenants and agrees to pay to the Association all Assessments (general and special) provided by this Declaration which shall be fixed, established, and collected from time to time as hereinafter provided. The proportionate liability of each Lot or Unit and its Owner for Assessments shall be as set out in the Schedule of Lot or Unit Information, as amended in accordance with Article 3. All Assessments and other charges provided by this Declaration, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a charge against and a continuing lien upon the Lot or Unit against which each such Assessment or charge is made. Each Owner shall be personally liable for Assessments coming due on his Lot or Unit while he is the Owner. Any Lot or Unit shall be conveyed subject to a lien for any unpaid Assessments subject to the provisions of Section 6.7 hereof. No Owner may waive or otherwise escape liability for Assessments by non-use of the Common Areas and Facilities or abandonment of his Lot or Unit.

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6.2 **General Annual Assessment.** The amount of all Common Expenses not specially assessed against one or more but less than all of the Lots or Units pursuant to the provisions of this Declaration, less the amount of all undistributed and unreserved Common Profits, shall be assessed against the Lots or Units in accordance with the Schedule of Lot or Unit Information attached as Exhibit C. The general annual Assessment shall be established by the Board of Directors in the manner set forth in this Section. During that portion of the Association's fiscal year from the recording of this Declaration to the end of such fiscal year, the annual Assessment applicable to each Lot or Unit shall be as set forth in the estimated budget for the Development delivered to each purchaser of a Lot or Unit. At least thirty (30) days prior to the annual meeting of the Association, the Association shall prepare and submit in writing to the Owners an estimated budget of the Common Expenses for the next succeeding fiscal year to be paid by Assessments collected from the Owners, together with the amount of the annual Assessment payable by each Owner during such fiscal year. If the estimated budget proves inadequate for any reason at any time during the year, then upon the affirmative Vote of Owners having at least two-thirds (2/3rds) of the total Vote for the particular tract involved, the Board of Directors may levy at any time a further Assessment against the Owners and notify the Owners accordingly. If for any reason an annual budget is not approved by the Board, a payment in the amount required by the last prior Assessment shall be due upon each Assessment due date until changed by a new Assessment. Common Expenses of the Association to be paid through annual Assessments shall include, but shall not necessarily be limited to, the following:

6.2.1 Management fees and expenses of administration, including management, legal and accounting fees.

6.2.2 Utility charges for utilities serving the Common Areas And Facilities and charges for other common services.

6.2.3 The cost of any master or blanket policies of insurance purchased for the benefit of all Owners or all Unit Owners and the Association as required by this Declaration, including fire and other hazard coverage, on Common Areas And Facilities and on Units (which latter cost shall only be assessed against the Units and not on Lots or the dwelling Units thereon) public liability coverage, and such other insurance coverage as the Board of Directors determines to be in the interest of the Association and the Owners.

6.2.4 The expense of maintenance, operation and repair of the Common Areas and Facilities as well as any maintenance upon the Lots or Units which is the responsibility of the Association under the provisions of Article 5, if such expense is not covered by a special Assessment, such maintenance to be specially assessed as provided in Article 5 and Exhibit B.

6.2.5 Charges for any utilities provided to the Lots or Units and not separately metered to a Lot or Unit, which shall be a Common Expense of the Association.

6.2.6 Such other expenses as may be determined from time to time by the Board of Directors to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against each Lot or Unit, other than ad valorem real property taxes.

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6.2.7 The establishment and maintenance of an adequate reserve fund or funds for the periodic maintenance, repair and replacement of those Common Areas and Facilities (including Limited Common Areas and Facilities) which the Association may be obligated to maintain and of a reserve to cover operating contingencies or deficiencies arising from unpaid Assessments or liens, emergency expenditures, and other matters, as may be authorized from time to time by the Board of Directors.

6.2.8 Any and all other Common Expenses as are permitted by the Acts.

The general annual Assessment for Common Expenses described above shall be paid by and collected from the Owners in accordance with their respective proportionate liabilities for Assessment. Each Owner shall be obligated to pay such Assessments to the Association in equal installments paid no less frequently than monthly, but as specifically established by the Board of Directors. In any year in which there is an excess of Assessments and other income over expenditures, the Board of Directors, by resolution and without the necessity of a Vote of the Owners, shall determine either to apply such excess or any portion thereof against and reduce the subsequent year's Assessments or allocate the same to one or more reserve accounts of the Association described above. Any of the foregoing provisions of this paragraph which may be construed to the contrary notwithstanding, no Assessment shall be payable under this paragraph by any Owner until this Declaration is filed of record. Therefore, the first annual Assessment payable under this Paragraph shall be prorated according to the number of days remaining in the Association's fiscal year after the date on which this Declaration is filed of record.

6.3 Special Allocation of Assessments. Any Common Expenses occasioned by the conduct of less than all the Owners or their Occupants may be specially assessed by the Board of Directors against the Lot or Lots, Unit or Units the conduct of any Owner or Occupant of which occasioned any such Common Expenses. Any Common Expenses benefiting less than all of the Lots may be assessed by the Board equitably among the Lots so benefited. Except as provided in Sections 3.5 and 5.2, or otherwise specifically provided in this Declaration there shall be no special Assessments against any particular Lots for any Common Expenses associated with the maintenance, repair, restoration, renovation or replacement of any Limited Common Area and Facilities; rather, such expenses shall be Common Expenses. The special allocation of assessments provided for in this paragraph shall be levied by the Board of Directors in its reasonable judgment, and the amount and due date(s) of such Assessments so specially allocated by the Board shall be as specified by the Board. In no event shall the Association or any member of the Board have any liability for any judgment or decision made reasonably and in good faith under this paragraph.

6.4 Special Assessment for Capital Improvements. In addition to the special and general Assessments authorized above, and in addition to the Special Assessments for reconstruction or repair of casualty damage, the Board of Directors may levy Special Assessments for the purpose of defraying, in whole or in part, the cost of any capital addition to or capital improvement of the Common Areas and Facilities (including the necessary fixtures and personal property related thereto), or for the cost of repair or replacement of a portion of the Common Areas and Facilities (including the necessary fixtures and personal property related thereto), which is for the benefit of all Owners; provided, however, any Special Assessment levied by the Board of Directors under and pursuant to the provisions of this Section must first

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have the affirmative Vote of Owners having at least two thirds (2/3rds) of the total Vote a meeting duly called and held for such purpose. Owners shall be assessed for Assessments against their respective Lots or Units, and the due date(s) of any such special Assessments shall be specified by the Board of Directors or committee assessing same.

6.5 Non-Payment of Assessments; Remedies of Association. Any Assessment, or portion thereof, not paid when due shall be delinquent, and the Board of Directors shall have the duty to enforce the collection of all delinquent Assessments. Nothing contained herein shall be intended to create any personal liability on the part of any such Director for failure to collect such Assessments. Any Assessment, or portion thereof, not paid within thirty (30) days after the due date shall constitute a lien on such Owner's Lot or Unit when filed of record in the office of the Clerk of Superior Court, Transylvania County, in the manner provided for filing statutory liens against real property. If the same is not paid within thirty (30) days after the due date, then a late charge of ten percent (10%) of the amount of each Assessment or installment thereof not paid when due, shall also be due and payable to the Association. If any Assessment or portion thereof is delinquent for a period of more than thirty (30) days, and then is not paid within ten (10) days after written notice is given to Owner to make such payment, the entire unpaid balance of the Assessment for the year in question may be accelerated at the option of the Board of Directors and be declared due and payable in full, and proceedings may be instituted to enforce such obligation and/or lien. Such notice shall be sent by certified mail, return receipt requested, to the Owner, both at the address of the Lot or Unit and at any other address or addresses the Owner may have designated to the Association in writing, specifying the amount of the Assessments then due and payable, together with authorized late charges. The Board of Directors may suspend the Vote of the Owner, as well as the right of such Owner the use of the Common Areas And Facilities, during the period in which any Assessment of portion thereof remains unpaid and after at least ten (10) days written notice is given to the Owner as aforesaid, and the Association may bring an action at law against the Owner obligated to pay the same or foreclose its lien against such Owner's Lot or Unit in accordance with the provisions of G.S. §47F-3-116, as amended, or G.S. §47C-3-116, as amended, or any other similar applicable statute, in which event late charges and costs of collection shall be added to and included in such lien, with such costs of collection to include court costs, the expenses of sale, any expenses required for the protection and preservation of the Lot and reasonable attorneys' fees. For the purposes of this Article, the amount of delinquent Assessments, if any, shall be considered an indebtedness and shall be evidenced by this Section 6.5 and therefore evidence of indebtedness shall exist hereby. All payments on account shall be applied first to the aforesaid costs of collection, then to late charges and then to the Assessment lien first due. All late charges collected shall be part of the Common Profits. Each Owners vests in the Board of Directors the right and power to bring all actions against him personally for the collection of said 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 Owners. The Association, acting through the Board, shall have the power to bid in the Lot at any Foreclosure sale and to acquire, hold, lease, encumber and convey the same. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Areas And Facilities or abandonment of his Lot or Unit.



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6.6 Priority of Lien. The lien for Assessments, once perfected, shall be prior to all other liens and encumbrances except only (a) the lien for real estate taxes on that Lot and (b) the lien of a Mortgage securing sums unpaid to Mortgagee or other lien or encumbrance recorded prior to the perfection of said lien for Assessment. The sale or transfer of any Lot shall not affect the Assessment lien.

6.7 Deed in Lieu of Foreclosure. Notwithstanding anything contained in this Declaration or the Act which may be construed to the contrary, in the event any First Mortgagee that is an Institutional Mortgagee shall acquire title to any Lot or Unit by virtue of any deed in lieu of foreclosure of a First Mortgage, such First Mortgagee shall not be liable for, nor shall such Lot be subject to a lien for any Assessment chargeable to such Lot or Unit on account of any period prior to the time such First Mortgagee shall so acquire title to such Lot or Unit; provided, however, that Common Expenses collectible thereafter from all Owners, including such First Mortgagee, shall be paid as forth in this Declaration.

#### ARTICLE 7

##### ADMINISTRATION

7.1 Administration by the Association. The Association shall administer the Development, and have the rights and duties with respect thereto, as set out in and subject to the Instruments and the Acts.

7.2 Control by Declarant. The Declarant shall have the right to appoint or remove all Directors and Officers or to exercise powers and responsibilities otherwise assigned to the Association, Board or Officers by the Instruments until the first to occur of: (i) the expiration of seven (7) years after the date of the recording of this Declaration; (ii) one hundred twenty (120) days after the date as of which Lots or Units to which eighty-five percent (85%) of the undivided interests in the Common Areas and Facilities appertain shall have been conveyed by Declarant to Owners; (iii) two (2) years after Declarant has ceased to offer Lots or Units for sale in the ordinary course of business; or (iv) the surrender by Declarant of such rights by an express amendment to this Declaration executed and recorded by Declarant, without the need for consent or joinder by any person. (the "Declarant Control Period"). Upon the expiration of the Declarant Control Period such rights shall automatically pass to the Owners (including Declarant if Declarant then owns one or more Lots or Units) and a special meeting of the Association shall be called as set forth in the Bylaws. At such meeting, the Owners shall elect a Board of Directors, subject to the provisions of Article VII of the Articles of Incorporation attached hereto. Further, any management or other agreement or any lease entered into during the period of Declarant Control shall be subject to cancellation without cause and without penalty or termination fee upon not more than ninety (90) days prior written notice.

7.3 Duties and Powers. The duties and powers of the Association shall be those set forth in the North Carolina Nonprofit Corporation Act, this Declaration, the Acts and the other Instruments, together with those reasonably implied to effect the purposes of the Association. Except to the extent otherwise required, the North Carolina Nonprofit Corporation Act, this Declaration, the Acts, or the other Instruments, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors, acting through the Officers, without any further consent or action on the part of the Owners.

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Subject to and in accordance with the provisions or limitations set forth in the Bylaws, each Director and each Officer shall be entitled to be indemnified by the Association in connection with any threatened, pending or completed action, suit or proceeding with respect to which such person was or is a party by reason of the fact that such person is or was a Director or Officer.

7.4 Property. All funds received and title to all properties acquired by the Association and the proceeds thereof, after deducting therefrom the costs incurred by the Association in acquiring the same, shall be held for the benefit of the Owners as herein provided and for the purposes herein stated. The shares of the Owners in the funds and assets of the Association cannot be individually assigned, hypothecated or transferred in any manner except as an appurtenance to a Lot or Unit. In any year in which there is an excess of Assessments over expenditures, such surplus shall be applied in accordance with the provisions of Article 6.

7.5 Rules and Regulations. Without limiting the generality of this Article, the Board of Directors shall have the power and authority to make, amend, and revoke reasonable rules and regulations concerning the use of the Lots, Units, and the Common Areas And Facilities as set forth in the Bylaws.

7.6 Professional Management. The Board of Directors may employ a professional management firm to manage the operation and affairs of the Development and the Association. Any management firm employed shall be employed pursuant to a written agreement executed on behalf of the Association by a Majority of the Board of Directors. All such management agreements shall be terminable by the Association with cause upon thirty (30) days written notice and without termination fee and upon ninety (90) days prior written notice and without termination fee without cause, and the term thereof may not exceed one (1) year. The management firm shall be the agent of the Board of Directors and the Association. To the extent permitted by law, the Board of Directors shall be authorized to delegate to such management firm such of the duties and powers of the Association and of its Board of Directors and Officers as the Board of Directors shall determine. The Declarant or any person affiliated with Declarant may be employed as the professional management firm pursuant to this Section; provided, however, that notwithstanding the foregoing, any contract or agreement of any kind with the Declarant or any person affiliated with the Declarant whether for professional management or for another purpose shall be terminable by either party thereto without cause and without payment of a termination fee upon no more than ninety (90) days prior written notice.

7.7 Enforcement of Director's Duties. In the event that the Board of Directors shall fail to perform any duty or duties which, under the terms and provisions of this Declaration or the other Instruments, are to be performed by it, any Owner or First Mortgagee who is aggrieved by such failure shall have the right to proceed in equity to compel the Board of Directors to perform such duty or duties. In no event, however, shall any Director have any liability to any Owner or First Mortgagee for any failure by the Board of Directors to perform any such duty or duties, except to the extent specifically provided in the North Carolina Nonprofit Corporation Act.

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ARTICLE 8

INSURANCE

8.1 General Obligation and Authority. The Association shall obtain not later than the first conveyance of a Lot or Unit and maintain at all times (a) insurance for all of the insurable improvements on the Development (with the exception of improvements and betterments made by the respective Owners or Occupants and such improvements as are separately subsequently owned by the Owner of a Lot or Unit) against loss or damage by fire or other hazards, including extended coverage, vandalism, malicious mischief, debris removal, cost of demolition, windstorm, and water damage, in an amount consonant with full replacement value of such insurable improvements, (b) fidelity coverage against dishonest acts on the part of its Directors, Officers, employees, agents and volunteers responsible for handling funds belonging to or administered by the Association in an amount at least equal to the sum of three (3) months Assessments plus reserves or in such greater amount as the Board may determine, (c) comprehensive public liability insurance, in amounts established by the Board of Directors from time to time, but in no event shall such amounts be less than One Million Dollars (\$1,000,000.00) for single limit coverage, and (d) such other types of insurance either required by applicable governmental authority or law or authorized by the Board of Directors from time to time. When any policy of insurance has been obtained by or on behalf of the Association, written notice of the obtainment thereof, and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner by the Officer required to send notices of meetings of the Association. In the event activities are conducted within a Lot or Unit such as to materially increase the premium or cost of insurance obtained pursuant to the provisions hereof, then in that event, the increased amount of such premium shall be assessed against such Lots or Units in accordance with Section 6.3.

ARTICLE 9

RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE

In the event of damage by fire or other casualty to the Common Areas And Facilities or any part thereof, the provisions of this Article shall govern the repair and reconstruction. The terms "repair" or "reconstruction" as used herein shall mean repairing or restoring the Common Area And Facilities to substantially the same condition in which it existed prior to the fire or other casualty (excluding improvements and betterments made by an Owner or Occupant) with each Lot or Unit and the Common Areas And Facilities having the same boundaries as before. Any repair or reconstruction may reasonably take into account changes in construction and design techniques and materials and the cost or availability thereof. The portion of the Common Area And Facilities so damaged shall be repaired or replaced promptly by the Association unless (1) the Common Area And Facilities is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the Owners of Lots and Units located within the Development decide not to rebuild by a Vote of at least eighty percent (80%). The cost of any such repair or replacement in excess of insurance proceeds and reserves shall be a Common Expense with respect to the Development. If the entire Development is not repaired or replaced, (1) the insurance proceeds attributable to the damaged Common Areas And Facilities shall be

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used to restore the damaged area to a condition compatible with the remainder of the Development, (2) the remainder of the proceeds shall be distributed to all the Owners or lienholders within the Development, as their interest may appear, in proportion to their interest in the Common Areas And Facilities.

9.1 Damage and Destruction.

9.1.1 Claims, Adjustments and Repair Estimates. Immediately after any damage or destruction to all or any part of the Common Areas And Facilities covered by insurance purchased by the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance with respect to property losses of Owners and obtain reliable and detailed estimates of the cost of repair or reconstruction of such damaged or destroyed property.

9.1.2 Responsibility for Repair or Reconstruction. All of the work of repairing or reconstructing any portion of the Common Areas And Facilities, the damage to or destruction of which resulted in the payment of any insurance proceeds under any insurance policy maintained by the Association, shall be the responsibility of the Association and shall be performed under the supervision of the Board of Directors. In discharging such supervisory responsibility, the Board of Directors shall be authorized, but shall not be obligated, to reemploy as its agent or consultant such building supervisors or architects as the Board of Directors shall determine. Any fees which shall be payable to any such building supervisor or architect as shall be employed by the Board of Directors, shall be a Common Expense.

ARTICLE 10

ARCHITECTURAL CONTROL, USE RESTRICTIONS  
AND SALE OR LEASING OF UNITS

To assure a community of congenial Owners and thus protect the value of the developed Lots and Units, the Development shall be subject to the restrictions set forth in this Article and in the rules and regulations of the Association.

10.1 Approval Required for Changes. To preserve the architectural appearance of the Development, no construction, painting or other changes of any nature whatsoever shall be commenced or maintained by any Owner, other than Declarant, with respect to the exterior of any dwelling on a Lot or Unit, or any other portion of the Development, including any Common Areas and Facilities appurtenant thereto, nor shall any exterior addition to or change or alteration therein be made, unless and until the plans and specifications showing the nature, kind, shape, color, height, materials, and location of the same shall have been submitted and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors or by an architectural committee of Owners appointed by the Board of Directors. This provision shall not be construed or intended to limit or restrict routine repainting in the same or substantially the same color as such structure was previously painted, routine landscaping and trimming and normal routine maintenance and repair with the same or similar materials. Any modifications, alterations or additions to the lawn or landscaping of the Lots or

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Units must be approved by the Association. An Owner may make improvements and alterations within or the dwelling on his Lot or Unit. No Owner shall impair any easement without first obtaining the written consent of the Association and the Owner or Owners and their Mortgagees for whose benefit such easement exists.

10.2 Lighting. The design, type, location, size, intensity, and color of all exterior lights (including both those mounted as part of the original design or otherwise in place at the time of the conveyance of a Lot or Unit to an Owner and those mounted with the consent of the Board of Directors) shall be subject to the prior written approval of the Board of Directors.

10.3 Residential Purposes. Except for Declarant's rights as set forth herein, all Lots and all Units shall be, and the same hereby are, restricted exclusively to residential use, and the occupancy thereof shall be subject to such restrictions as the Board of Directors may establish pursuant to the rules and regulations of the Association. The Board of Directors is given full and complete judgment, whether a proposed use is in violation of the restrictions set forth herein. In no event shall the Association or any member of the Board have any liability for any judgment or decision made reasonably and in good faith under this paragraph.

10.4 Signs. Except as may be required by legal proceedings and except as permitted in accordance with Section 4.6 hereof, no "For Sale" or "For Rent" signs of any kind shall be maintained or permitted on any portion of the Development, without the express written permission of the Declarant, so long as Declarant retains the right to appoint the Board of Directors and, thereafter, without the express prior written permission of the Board of Directors. Notwithstanding the foregoing, the provisions of this Section shall not apply to any signs maintained by the Declarant, its agents, representatives, or assigns, during the period that the Declarant has a Lot or Unit for sale, or to any notice or other advertisement posted on any community bulletin board by an Owner or his licensed real estate broker or agent or to a "For Sale" sign posted by a Mortgagee who becomes the Owner as purchaser at a Foreclosure Sale conducted with respect to a Mortgage or as a transferee pursuant to any proceeding in lieu thereof, subject to reasonable rules and regulations established by the Board of Directors with respect to such "For Sale" sign. The foregoing shall not apply to the signs placed by Declarant upon, and becoming a portion of, the Common Areas and Facilities at each entrance to the Development, which identifies the name of the Development and the directional signs placed by Declarant at various locations on the Common Areas and Facilities which gives directions to each Condominium and identifies the Occupant. The maintenance responsibility for such signs shall rest with the Association.

10.5 Pets. No animals or birds, or any kind of pet, shall be kept or maintained on any portion of the Development, except that, notwithstanding the foregoing, Owners may keep and maintain no more than two (2) typical domestic pets, with dogs not exceeding forty (40) pounds. All such animals shall be further subject to such reasonable rules and regulations as the Association may impose.

10.6 Use of Common Areas and Facilities. The use and enjoyment of the Common Areas And Facilities by the Owner and their Occupants shall be subject to such reasonable rules and regulations as

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may be made and amended from time to time in accordance with Section 7.5 of this Declaration. This Section is for the mutual benefit of all Owners and is necessary for the protection of all Owners.

10.7 Antennas. No antenna or other device for the transmission or reception of television signals, radio signals, or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Development, whether attached to a building or structure or otherwise, without the express written permission of the Declarant, so long as Declarant retains the right to appoint the Board of Directors and, thereafter without the express written permission of the Association; provided, however, that Declarant and the Association shall have the right to erect, construct and maintain such devices. Notwithstanding the foregoing, any such device which may not be prohibited by the Association or the Declaration pursuant to the Federal Communications Act, or other similar statutory provision, shall be deemed herewith approved and permitted.

10.8 Motor Vehicles, Trailers, Boats, etc. Automobiles shall be operated and parked only upon those portions of the Common Areas and Facilities designated for such purpose on the Plat or by the Board of Directors. Other motor vehicles, including, without limitation, mobile homes, motor homes, truck campers, trailers of any kind, and boats, shall not be kept, placed, stored, or parked on any portion of the Development, with the exception of motor vehicles temporarily parked on the Development for purposes of repairs of portions of the Development, or deliveries. The provisions of this Section 10.8 shall not be applicable to any such motor vehicles campers, boats, etc. which are parked at all times within a garage and operated or removed from within such garage solely to be moved from the Development for utilization of such motor vehicles, etc. or return from without such Development to such garage.

10.9 Nuisances. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Development, except in containers specifically designated for such purpose, nor shall any odors be permitted, so as to render any portion of the Development unsanitary, unsightly, offensive or detrimental to persons using or occupying other portions of the Development. No nuisance shall be permitted to exist or operate upon any portion of the Development so as to be offensive or detrimental to persons using or occupying other portions of the Development. 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, shall be located, used or placed on the Development.

10.10 Prohibited Activities. Noxious or offensive activities shall not be carried on in any Lot or Unit, or in any part of the Common Areas And Facilities. Each Owner and Occupant shall refrain from any act or use of his Lot or Unit or the Common Areas And Facilities which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the other Owners and Occupants, or which would result in the cancellation of insurance on any portion of the Common Areas And Facilities, or which would be in violation of any law or governmental code or regulation. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken on any portion of the Development.

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10.11 Governmental Regulations. All governmental building codes, health regulations, zoning restrictions, and the like applicable to the Development shall be observed. In the event of any conflict between any provision of any such governmental code, regulations, or restriction and any provision of this Declaration, the more restrictive provision shall apply.

10.12 Exterior Appearance. To provide a neat, attractive and harmonious appearance throughout the Development, no awnings, shades, screens or other items shall be attached to, hung or used on the exterior of any window or door of any building without the prior written consent of the Board of Directors or an architectural committee appointed by the Board of Directors. Further, no foil or other reflective material shall be used on any windows or sun screens, blinds, shades or any other purpose.

10.13 Sale Period. Notwithstanding any provisions contained in this Declaration to the contrary, during the period of the sale of the Lots it shall be expressly permissible for Declarant, its contractors, agents, employees, assigns, and representatives to maintain and carry on, upon such portion of the Development as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the completion and sale of the Lots, including, but without limitation, business offices, signs, model units, and sales offices. The right to maintain and carry on such facilities and activities on the Submitted Property or the Development for such purposes and to use any Lots or Units on the Development for such purposes and to use any Lots owned by Declarant as model units and as offices for the sale of the Lots or Units and related activities, such units being located and described as provided herein and in the other Instruments.

10.14 Sale, Leasing, Timesharing. The following provisions shall apply to sales or leases of Lots.

10.14.1 The right of any Owner, including Declarant, to sell, transfer, convey, mortgage, encumber, or pledge the Lot or Unit owned by such Owner shall not be subject to any right of first refusal or any similar restriction in favor of the Association or Declarant.

10.14.2 No Owner may lease his Lot or Unit for transient or hotel purposes. Any Lease shall be subject in all respects to the provisions of the Instruments and the rules and regulations of the Association; any failure by the Lessee to comply with the terms of such Instruments shall be a default under the Lease, and any Lease shall so provide. In the event of non-compliance by any tenant or other occupant of a Lot or Unit with the terms of the Instruments, the Board of Directors shall have the right to require the Owner or lessee of such Lot or Unit to terminate such lease because of such default or cause the Owner to effect compliance and additionally, to levy a charge or fine against the Owner of such Lot or Unit for such non-compliance.

10.14.3 Time-sharing or timeshares as defined in the North Carolina Time Share Act (N. C. General Statute 93-A-39 et seq) is prohibited)

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ARTICLE 11

GENERAL PROVISIONS

11.1 Amendment. This Declaration may be amended by the affirmative Vote of Owners having at least sixty-seven percent (67%) of the total Vote of the Association. Notwithstanding anything to the contrary, so long as the same shall not (a) adversely affect the title to any Lot or Unit, (b) change the percentage of undivided ownership interest in and to the Common Areas and Facilities appurtenant to any Lot or Unit, except as otherwise provided or (c) materially alter or change any Owner's right to the use and enjoyment of his Lot or Unit, Common Area And Facilities as set forth in this Declaration, each Owner and Mortgagee agrees that, if requested to do so by Declarant during the Declarant Control Period, such Owner and Mortgagee shall consent to the amendment of the Instruments, (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with, or remove any conflict or inconsistency with, the provisions of any applicable governmental statute, rule, regulation, including without limitation, the provisions a judicial determination which shall be in conflict therewith, (ii) if such amendment is required by the governmental statutes, laws, rules or regulations applicable to or promulgated by a governmental lender or purchaser of mortgage loans, or (iii) if such amendment is necessary to obtain permanent financing from a Mortgagee relative to any Lot or Unit. Amendments to this Declaration or the other Instruments may be proposed by Declarant, by the Board of Directors, or by petition signed by Owners having at least thirty percent (30%) of the total Votes of the Association. Agreement of the required majority of Owners to any amendment of the Instruments shall be evidenced by their execution of the amendment. Any such amendment of the Instruments, including this Declaration, shall become effective only when recorded or at such later date as may be specified in the amendment itself. The written consent of any Mortgagee required with respect to such amendment shall also be recorded in such amendment.

11.2 Eminent Domain. In the event that all or part of the Development shall be taken by any authority having the power of eminent domain, the allocation of the award for such condemnation and all related matters, such as the reallocation of undivided interests in the Common Areas and Facilities, liabilities for Assessments and Votes, shall be handled as follows:

11.2.1 If any Lot or Unit or portion thereof or the Common Areas and Facilities or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the holder of any First Mortgage on a Lot or Unit, will be entitled to timely written notice of any such proceeding or proposed acquisition, and no provision of this Declaration will entitle the Owner or other person to priority over any Mortgagee with respect to the distribution of the proceeds of any award or settlement relating to such Lot or Unit.

11.2.2 In the event all or any part of the Common Areas And Facilities shall be taken in condemnation or by eminent domain, each Owner hereby grants an irrevocable power of attorney to the Association to represent such Owner in any and all condemnation proceedings, negotiations, settlements, and agreement with the condemning authority. The award for such taking shall be payable to the



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Association for the use and benefit of the Owners and their respective Mortgagees as their interest may appear and shall be distributed by the Board of Directors as hereinafter provided.

11.2.3 If part of the Common Areas And Facilities is acquired by eminent domain, the award must be paid to the Association for the benefit of the Owners. Any portion of the award attributable to the acquisition of a portion of the Common Areas And Facilities must be apportioned among the Owners of the Lots or Units, to which that portion of the Common Areas And Facilities was allocated at the time of acquisition.

11.2.4 The court decree relative to such eminent domain shall be recorded in the Office of the Clerk of Superior Court, Transylvania County, North Carolina.

11.3 Rights of Third Parties. This Declaration shall be recorded for the benefit of Declarant, the Owners and their Mortgagees as herein provided, and by such recording, no adjoining property owner or other person shall have any right, title or interest whatsoever in the Development or in the operation of continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and such Mortgagees as herein provided, the Owners shall have the right to cancel, extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any adjoining owner or third person.

11.4 Termination. The Common Areas And Facilities shall remain undivided and no Owner nor any other person shall bring any action for partition or division of any part of the Common Areas And Facilities.

11.5 Enforcement. Each Owner shall comply strictly with the provisions of the Instruments and rules and regulations of the Association. In the event of a violation or breach, or threatened violation or breach, of any of the same, the Association or, in a proper case, any aggrieved Owner or Owners, jointly and severally, shall have the right to proceed at law or in equity to compel compliance therewith or to prevent a threatened violation or breach thereof. In addition to all other remedies, the Association, or a duly authorized agent thereof, shall have the right to enter upon any portion of the Common Areas And Facilities where a violation exists and, at the expense of the violating Owner, abate or remove any structure, thing or condition that may be or exist contrary to the intent and meaning of the Instruments or rules and regulations, if after notice and hearing as set forth in the Bylaws, it shall not have been corrected by such Owner. Neither the Association, nor its agents, shall be deemed guilty or liable for any manner of trespass for such entry, abatement or removal. Should the Association employ legal counsel to enforce any of the foregoing or any other rights or remedies of the Association, all costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the violating Owner. Inasmuch as the enforcement of the provisions of the Instruments and rules and regulations is essential for the protection of present and future Owners, it is hereby declared that any breach thereof cannot be adequately compensated by recovery of damages, and that the Association or, in any proper case, any aggrieved Owner or Owners, in addition to all other remedies may require and shall be entitled to the remedy by injunction to restrain any such violation or breach or threatened violation or breach. No delay, failure or omission on the part of the Association, or any aggrieved Owner or Owners in exercising any right, power or remedy herein provided

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shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to do so thereafter, as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Association or its Officers or Directors for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, of the provisions and regulations, however long continued, or for the imposing of provisions which may be unenforceable.

11.6 Exhibits. All exhibits referred to in and attached to this Declaration or any other Instruments are hereby incorporated in this Declaration or such other Instruments in full by this reference.

11.7 Duration. The provisions of this Declaration shall run with and bind the land, shall be binding upon and inure to the benefit of all Owners and Mortgagees, their heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect for a period of twenty (20) years, from the date this Declaration is recorded, after which time this Declaration shall be automatically extended perpetually for successive periods of ten (10) years, to the extent permitted by North Carolina law.

11.8 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Declarant or the Board of Directors, will best effect the intent of the general plan of the Development. The provisions hereof shall be liberally interpreted, and if necessary, they shall be so extended or enlarged by implications as to make them fully effective. The effective date of this Declaration shall be the date it is filed of record. In the event of any conflicts or inconsistencies between the Act, this Declaration or the Bylaws, the terms and provisions of this Declaration, in that order, shall prevail.

11.9 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

11.10 Rights of Mortgagees and Owners. In addition to the rights of Mortgagees elsewhere provided, each Mortgagee and each Owner shall: (a) be entitled to written notice from the Association of any default by an Owner in the performance of his obligations under the Instruments which is delinquent for a period of more than thirty (30) days specifically including any delinquency in payment of an Assessment; (b) be entitled to receive notice of and to designate a representative to attend and observe all meetings of Owners, but not meetings of the Board of Directors; (c) be entitled to receive written notice of any condemnation loss or any casualty loss which affects a material portion of the Development or any Lot or Unit on which a Mortgagee holds a Mortgage; (d) be entitled to receive thirty (30) days prior written notice of any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; (e) be entitled to receive written notice of any proposed action which would require the consent of a specified percentage of the Mortgagees; and (f) be furnished copies of annual financial reports within one hundred twenty (120) days after the end of the Association's fiscal year; provided, however, that such Owner or Mortgagee shall first file with the Association a written request

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(setting forth the name of such Owner or Mortgagee and the Lot or Unit Designation of the Lot or Unit with respect to which such request is made) that notices of default, notices of meetings and copies of financial reports be sent to a named agent or representative of the Mortgagee or Owner at an address stated in such notice. Further, each Mortgagee and Owner shall, upon request, be entitled to inspect the books, records and financial statement of the Association (including the Instruments and other documents) during normal business hours. Any First Mortgagee shall, upon written request, be entitled to an audited financial statement of the Association for the immediately preceding fiscal year, free of charge to the First Mortgagee so requesting it.

**11.11 Responsibility for Maintenance of Private Streets and Parking Areas.** The maintenance responsibility for the private streets and parking areas, which comprise a portion of the Common Areas And Facilities shall rest with the Association.

**11.12 Contract for Installation of Utility Service.** Declarant reserves the right to subject the Development to a contract with any public or quasi-public for the installation of underground cables, lines, pipes or conduit for the provision utility services and/or installation of street lighting, either or both of which may require a continuing monthly payment to such utility by the Association.

**11.13 Severability.** Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any portion of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

**11.14 Captions.** The captions of each Article and Section hereof as to its contents are inserted only for convenience and are in no way to be construed as defining, extending or otherwise modifying or adding to the particular Article or Section.

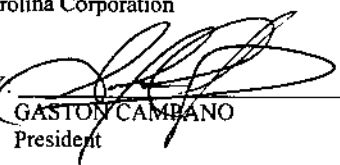
**11.15 Person to Receive Service of Process.** Gaston Campano is designated as the registered agent of the Association in the Articles of Incorporation and, therefore, shall receive service of process in any action which may be brought against or in relation to the Condominium as agent therefor. His address for such purpose is: Suite C, 101 Chadwick Square Court, Hendersonville, NC 28739.

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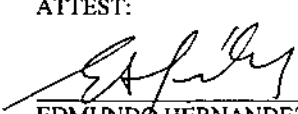
IN WITNESS WHEREOF, Declarant has caused this instrument to be executed under seal as of the day and year first above written.

DECLARANT:

BEDFORD PLACE, L.L.C.,  
a North Carolina Limited Liability Company  
By: GLADE HOLDINGS, INC. a North  
Carolina Corporation

BY:   
GASTON CAMBANO  
President

ATTEST:

  
EDMUNDO HERNANDEZ  
Secretary



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STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

I, Dawn M. Westmoreland, a Notary Public of the County and State aforesaid, certify that EDMUNDO HERNANDEZ personally came before me this day and acknowledged that he is Secretary of GLADE HOLDINGS, INC., a North Carolina Corporation, Member/Manager of BEDFORD PLACE, LLC, a North Carolina Limited Liability Company and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him as its Secretary.

Witness my hand and official stamp or seal, this 20<sup>th</sup> day of March, 2002.

Dawn M. Westmoreland  
Notary Public

My commission expires: 10-2-2006



STATE OF NORTH CAROLINA, COUNTY OF TRANSYLVANIA

The foregoing certificate of Dawn M. Westmoreland

Notary (ies) Public is/are certified to be correct. This instrument was presented for registration and recorded in this office in Book 97, Page 268

This 12 day of April, 2002, at 3:00 o'clock P.M.

Vickie L. Edwards  
Register of Deeds

By D'Rua McCann  
Deputy Register of Deeds

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EXHIBIT A  
to  
DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
BEDFORD PLACE  
DEVELOPMENT

BEGINNING at an existing nail, said existing nail being located in the center line of the right of way of Osborne Road (S.R. 1556), said Beginning Point located South 84° 34' 19" East 1929.07 feet from N.C.G.S. Monument "STRAUS", bearing coordinates N=566807.559 feet, E=889232.207 feet, NAD 83 scale factor-0.9998726, Elevation (NGVD 29)-2164.63 feet AND RUNNING THENCE FROM SAID POINT AND PLACE OF BEGINNING along and with the center line of the right of way of Osborne Road the following courses and distances: North 82° 50' 33" East 58.27 feet, North 79° 31' 39" East 54.38 feet, North 78° 04' 21" East 75.80 feet, North 76° 56' 54" East 74.99 feet and North 78° 36' 49" East 77.49 feet to an existing railroad spike; thence leaving the center line of the right of way of Osborne Road, along and with the western boundary of the property of (now or formerly) Weaver as described in Deed Book 402, Page 452; South 01° 02' 47" East 210.01 feet to an axle control corner, having a bench mark of 2,209.06 feet at the top of said axle; thence along and with the southern or southwestern boundary of the property of (now or formerly) Weaver, South 69° 01' 24" East 139.66 feet to an axle; thence continuing along and with the southern or southwestern boundary of the property of (now or formerly) Weaver, South 68° 04' 32" East 56.82 feet to an existing iron pin; thence leaving the boundary of the property of (now or formerly) Weaver and running along and with the western or northwestern boundary of the property of (now or formerly) Osborne as described in Deed Book 141, Page 34, South 36° 22' 17" West 467.81 feet to an existing iron pin, said existing iron pin being a common corner with the property of (now or formerly) Sitton as described in Deed Book 179, Page 627; thence along and with Northern or northeastern boundary of the property of (now or formerly) Sitton North 60° 26' 17" West 109.95 feet to an existing iron pin; thence along and with the western or northwestern boundary of the property of Sitton, South 20° 16' 39" West 247.32 feet to an existing iron pin; thence along and with the northern or northeastern boundary of the property of (now or formerly) Dobbins as described in Deed Book 442, Page 440, North 65° 23' 08" West 493.62 feet to an existing iron pin; said existing iron pin being the northeasternmost corner of the property of (now or formerly) Eldridge as described in Deed Book 370, Page 67; thence along and with the northern boundary of the property of (now or formerly) Eldridge, passing an existing concrete monument at 11.28 feet, North 65° 22' 58" West 119.35 feet to an existing concrete monument, said existing concrete monument being the southern or southeasternmost corner of the property of (now or formerly) Smith as described in Deed Book 386, Page 239; along and with the eastern or southeastern boundary of the property of (now or formerly) Smith, North 23° 55' 45" East 299.45 feet to an existing concrete monument; thence along and with the southern or southwestern boundary of the property of (now or formerly) Gardner as described in Deed Book 322, Page 652, South 62° 07' 18" East 90.08 feet to an axle with a bench mark at the top of said axle bearing 2153.09 feet; thence along and with the eastern or southeastern boundary of the property of (now or formerly) Vaughn as described in Deed Book 454, Page 223, Transylvania County Registry, North 29° 18' 06" East 196.89 feet to a existing iron pin, said existing iron pin being the southwesternmost corner of the property of (now or formerly) Fisher as described in Deed Book 19, Page 729; thence along and with the southern boundary of the property of (now or formerly) Fisher, South 76° 45' 44" East 154.27 feet to an existing iron pin in PVC; thence along and with the eastern boundary of the property (now or formerly) Fisher, North 25° 38' 33" East 85.75 feet to an existing iron pin and North 08° 02' 05" East 70.69 feet to the point and place of BEGINNING and being a tract or parcel of land containing 10.2 acres more or less as shown on plat of survey thereof entitled "Map of Boundary and Topography for Glade Holdings, Inc." prepared by Associated Land Surveyors, dated June 6, 2001.

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EXHIBIT B  
to  
DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
BEDFORD PLACE  
SUBMITTED PROPERTY

BEGINNING at an existing iron pin in a PVC pipe, said Beginning Point being located from NCGS Monument "Straus", said Monument bearing N=566807.559 feet and E=889232.207, NAD83 Scale Factor - 0.9998726, Elevation (NGVD 29) - 2164.63 feet, the following courses and distances: South 84° 34' 19" East 1929.07 feet to an existing nail located in the center line of Osborne Road (S.R. 1556), thence leaving said center line South 08° 02' 05" West 70.69 feet to an existing iron pin, and South 25° 38' 33" West 85.75 feet; AND RUNNING THENCE FROM SAID POINT AND PLACE OF BEGINNING, South 19° 34' 38" West 39.32 feet; thence South 62° 59' 15" East 22.35 feet; thence in a clockwise direction along and with the arc of a curve having a radius of 26.50 feet an arc length of 41.63 feet, a chord distance of 37.48 feet and a chord bearing of South 17° 59' 15" East to a point; thence South 27° 00' 45" West 29.93 feet to a point; thence in a counter clockwise direction along and with the arc of a curve having a radius of 136.50 feet, an arc length of 78.38 feet, a chord distance of 77.31 feet and a chord bearing of South 10° 33' 43" West to a point; thence in a clockwise direction along and with the arc of a curve having a radius of 26.50 feet, an arc length of 34.55 feet, a chord distance of 32.16 feet and a chord bearing of South 31° 27' 48" West to a point; thence South 68° 48' 56" West 14.52 feet to a point; thence in a counter clockwise direction along and with the arc of a curve having a radius of 166.50 feet; an arc length of 140.47 feet, a chord distance of 136.34 feet and a chord bearing of South 44° 38' 47" West to a point; thence South 20° 28' 38" West 178.40 feet to a point located in the northern or northeastern line of the property of (now or formerly) Dobbins as described in Deed Book 442, Page 440, Transylvania County Registry; thence along and with the northern or northeastern boundary of the property of (now or formerly) Dobbins North 65° 23' 08" West 155.22 feet to an existing iron pin; said existing iron pin, being the easternmost corner of the property of (now or formerly) Eldridge as described in Deed Book 370, Page 67, Transylvania County Registry; thence along and with the northern or northeastern boundary of the property of (now or formerly) Eldridge, North 65° 22' 58" West, passing an existing concrete monument at 11.28 feet, a total distance of 119.35 feet to an existing concrete monument located at the southern or southeasternmost corner of the property of (now or formerly) Smith as described in Deed Book 386, Page 239, Transylvania County Registry; thence along and with the southern or southeastern boundary of the property of (now or formerly) Smith, North 23° 55' 45" East 299.44 feet to an existing concrete monument, said existing concrete monument being located in the southern or southwestern boundary of the property of (now or formerly) Gardner as described in Deed Book 322, Page 652, Transylvania County Registry; thence along and with the southern or southwestern boundary of the property of (now or formerly) Gardner, South 62° 07' 18" East 90.08 feet to an axle in a concrete control corner with a bench mark = 2153.09 feet at the top of said axle, said control corner being the southernmost corner of the property of (now or formerly) Vaughn as described in Deed Book 454, Page 223, Transylvania County Registry; thence along and with the eastern or southeastern boundary of the property of (now or formerly) Vaughn, North 29° 18' 06" East 196.89 feet to an existing iron pin; thence along and with the southern or southwestern boundary of the property of (now or formerly) Fisher as described in Deed Book 19, Page 729, Transylvania County Registry; South 76° 45' 44" East 154.27 feet to an existing iron pin in a PVC pipe, said point being the point and place of BEGINNING and being a tract or parcel of land containing 2.85 acres, more or less, as shown on plat of survey entitled "Map of Division For Bedford Place, LLC" prepared by Associated Land Surveyor dated April 1, 2002 bearing Job No.: S-033-02.

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EXHIBIT C  
to  
DECLARATION OF COVENANT AND RESTRICTIONS  
FOR  
BEDFORD PLACE

SCHEDULE OF LOT AND UNIT INFORMATION

IDENTIFYING # LOTS	UNDIVIDED INTEREST IN COMMON AREAS	VOTES IN ASSOCIATION	SHARE OF LIABILITY FOR COMMON EXPENSES *
1.	2.407%	2.407%	2.407%
2.	2.407%	2.407%	2.407%
3.	2.407%	2.407%	2.407%
4.	2.407%	2.407%	2.407%
5.	2.407%	2.407%	2.407%
6.	2.407%	2.407%	2.407%
7.	2.407%	2.407%	2.407%
8.	2.407%	2.407%	2.407%
9.	2.407%	2.407%	2.407%
10.	2.407%	2.407%	2.407%
11.	2.407%	2.407%	2.407%
12.	2.407%	2.407%	2.407%
13.	2.407%	2.407%	2.407%
14.	2.407%	2.407%	2.407%
15.	2.407%	2.407%	2.407%
16.	2.407%	2.407%	2.407%
17.	2.407%	2.407%	2.407%
18.	2.407%	2.407%	2.407%
19.	2.407%	2.407%	2.407%
20.	2.407%	2.407%	2.407%
21.	2.407%	2.407%	2.407%
22.	2.407%	2.407%	2.407%
23.	2.407%	2.407%	2.407%
24.	2.407%	2.407%	2.407%
25.	2.407%	2.407%	2.407%
26.	2.407%	2.407%	2.407%
27.	2.407%	2.407%	2.407%



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EXHIBIT C  
to  
DECLARATION OF COVENANT AND RESTRICTIONS  
FOR  
BEDFORD PLACE

SCHEDULE OF LOT AND UNIT INFORMATION

IDENTIFYING # UNITS	UNDIVIDED INTEREST IN COMMON AREAS	VOTES IN ASSOCIATION	SHARE OF LIABILITY FOR COMMON EXPENSES *
1.	1.50%	1.50%	1.50%
2.	1.50%	1.50%	1.50%
3.	1.50%	1.50%	1.50%
4.	1.50%	1.50%	1.50%
5.	1.50%	1.50%	1.50%
6.	1.50%	1.50%	1.50%
7.	1.50%	1.50%	1.50%
8.	1.50%	1.50%	1.50%
9.	1.50%	1.50%	1.50%
10.	1.50%	1.50%	1.50%
11.	1.50%	1.50%	1.50%
12.	1.50%	1.50%	1.50%
13.	1.50%	1.50%	1.50%
14.	1.50%	1.50%	1.50%
15.	1.50%	1.50%	1.50%
16.	1.50%	1.50%	1.50%
17.	1.50%	1.50%	1.50%
18.	1.50%	1.50%	1.50%
19.	1.50%	1.50%	1.50%
20.	1.50%	1.50%	1.50%
21.	1.50%	1.50%	1.50%
22.	1.50%	1.50%	1.50%
23.	1.50%	1.50%	1.50%
24.	1.50%	1.50%	1.50%

\* The Association shall not be responsible to maintain any of the structures on the Lots, except Condominium Units and except as provided in Section 5.2, and, therefore, the Condominium Units shall be subject to assessment with each such two (2) bedroom Condominium Units to pay 2.438% of the costs so incurred for structural maintenance and exterior maintenance such as roofing, gutters, paint and vinyl repair, and each such three (3) bedroom Condominium Units to pay 3.117% of the costs so incurred. Additionally, such Condominium Units will be separately assessed for a blanket or master policy(ies) of hazard, fire and external coverage insurance.

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BYLAWS  
OF  
BEDFORD PLACE OF BREVARD  
HOMEOWNERS' ASSOCIATION, INC.,  
a North Carolina Nonprofit Corporation

THE OWNERS' ASSOCIATION  
OF  
BEDFORD PLACE  
in Transylvania County, North Carolina

Adopted March \_\_, 2002

BYLAWS

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BYLAWS

OF

BEDFORD PLACE OF BREVARD HOMEOWNER'S ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

The name of the Corporation is Bedford Place Of Brevard Homeowners' Association, Inc. The principal office of the Corporation shall be located at Suite C, 101 Chadwick Square Court, Hendersonville, Henderson County, North Carolina, 28739 or such other place as shall be selected by the Board Of Directors, but meetings of Owners and Directors may be held at such places within the State of North Carolina, County of Transylvania or Henderson, as shall be selected by the same manner.

ARTICLE II

DEFINITIONS

Section 2.1 "Declaration" shall mean that certain Declaration of Condominium, Covenants And Restrictions For Bedford Place recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, Transylvania County Registry.

Section 2.2 The terms defined in Article I of the Declaration shall have the same meanings as set forth therein in these Bylaws.

ARTICLE III

MEMBERSHIP

An Owner of a Lot or Unit shall automatically become a member of the Association upon taking title to the Lot or Unit and shall remain a member for the entire period of ownership. If title to a Lot or Unit is held by more than one person, the membership shall be shared in the same proportion as the title, but there shall be only one membership per Lot or Unit. Membership does not include a Mortgagee, and the giving of a Mortgage shall not terminate the Lot or Unit Owner's membership. Membership shall be appurtenant to the Lot or Unit to which it appertains, shall be transferred automatically by conveyance of that Lot or Unit, and may be transferred only in connection with the conveyance of title of that Lot or Unit.

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ARTICLE IV

MEETINGS OF UNIT OWNERS

Section 4.1 Annual Meeting. The annual meeting of the Owners shall be held in December at such date and time as shall be established by the Board of Directors, for the purpose of transacting any business authorized to be transacted by the Owners; provided, however, if that day is a legal holiday, this meeting shall be held at the same hour on the next succeeding day.

Section 4.2 Substitute Annual Meeting. If the annual meeting of the Owners is not held as provided in Section 4.1, any business, including the election of Directors, which might properly have been acted upon at that meeting may be acted upon at any subsequent Owners meeting held pursuant to these Bylaws or to a court order requiring a substitute annual meeting.

Section 4.3 Special Meetings. Special meetings of the Owners may be called at any time by the president, a majority of the Board or upon written request of the Owners who are entitled to Vote ten percent (10%) of all Votes in the Association.

Section 4.4 Notice of Meetings. Written notice of each meeting of Owners shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, or hand delivered not less than ten (10) days nor more than sixty (60) days, unless otherwise stated in the Declaration, before such meeting to each Owner entitled to Vote thereat, addressed to the Owner's address last appearing on the books of the Association, or supplied by such Owner to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, the items on the agenda, including general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes and any proposal to remove a director or officer. Proof of such mailings shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings by Vote of the Owners of the Association.

Section 4.5 Quorum. The presence at the meeting of Owners entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the Votes in the Association shall constitute a quorum for any action except as otherwise provided in the Instruments. If, however, such quorum shall not be present or represented at any meeting, the Vote of the Majority of the Owners entitled to Vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented; provided that a such meeting the quorum requirement shall be reduced to one-twentieth (1/20) of the Votes of the Association. The presence of an Owner at the beginning of a meeting shall constitute the presence of such Owner for the purpose of determining a quorum. The Vote of the Owners of a Lot or Unit owned by more than one person or by a corporation or other entity shall be cast by the person named in a certificate signed by all of the Owners of the Lot or Unit and filed with the Secretary of the Association. Such certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not on file, the Vote of such Lot or Unit Owners shall not be considered in determining the requirement for a quorum nor for any other purpose.

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Section 4.6 Proxies. At all meetings of Owners, each Owner may Vote in person or by proxy. All proxies shall be in writing and filed with the Secretary prior to or at the commencement of the meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Owner of his Lot or Unit.

Section 4.7 Order. The order of business at annual Owners' meetings, and, as far as practical at all other Owners' meetings, shall be:

- a. Calling of the roll and certifying of proxies.
- b. Proof of notice of meeting or waiver of notice.
- c. Reading and disposal of any unapproved minutes.
- d. Unfinished business.
- e. New business.
- f. Adjournment.

Section 4.8 Conduct of Meetings. The President shall preside over all Owners' meetings. The Secretary shall keep a minute book with all resolutions adopted by the Owners, minutes of all meetings, and all written consents to actions taken without a meeting. Robert's Rules of Order (latest edition) shall govern the conduct of the meeting, except to the extent inconsistent herewith.

Section 4.9 Adjournments. Any meeting of the Owners, whether or not a quorum is present, may be adjourned by a Majority of the Votes at the meeting to reconvene at a specific time and place. It shall not be necessary to give any notice of the reconvened meeting or of the business to be transacted, if the time and place of the reconvened meeting are announced at the meeting which was adjourned. Any business may be transacted which could have been transacted at the meeting which was adjourned, if a quorum is at the reconvened meeting.

Section 4.10 Action of Owners Without a Meeting. Any action which may be taken at a meeting of the Owners may be taken without a meeting if a written consent setting forth the action authorized, is signed by all of the Owners. The consent shall be filed in the minute book or other appropriate records by the Secretary. It shall then have the same effect as a unanimous Vote of the Owners at a special meeting called for the purpose of considering the action authorized.

Section 4.11 Vote Required for Action. Except as otherwise provided by the Act, the Nonprofit Corporation Act, in the Instruments or herein, the act of a Majority of the Owners at a meeting at which a quorum was present shall be the act of the Owners.

#### ARTICLE V

#### BOARD OF DIRECTORS

Section 5.1 General Powers. The business and affairs of the Association shall be managed by the Executive Board of Directors elected as provided in G.S. 47F-3-103 and G.S.

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47C-3-103 (hereinafter referred to as the "Board" or "Board of Directors"). The Board shall have all powers of the Association that are not required by law, the Instruments, the Articles of Incorporation or these Bylaws, to be exercised by the Owners. The powers of the Association include those set forth in Section 55A-15 of the North Carolina Nonprofit Corporation Act and Article 3 of the Community Act with respect to the Lots and Article 3 of the Condominium Act with respect to the Units.

Section 5.2 Qualifications. Each Director must be a Owner, except those appointed by Declarant during the Declarant Control Period.

Section 5.3 Nomination. Nomination for election to the Board shall be made by a nominating committee which shall consist of three (3) Owners appointed by the President. The nominating committee may nominate any number of qualified individuals, but no less than the number of Directors to be elected. Separate nominations shall be made for each seat on the Board for which a Director is to be elected. The nominations and the names of those on the nominating committee shall be included with the notice of the meeting. Nominations shall also be allowed from the floor at the meeting.

Section 5.4 Election. Subject to Section 5.5.1 hereof, election to the Board of Directors shall be by written ballot. At such election the Owners or their proxies may cast, in respect to each vacancy, as many Votes as they are entitled to exercise under the provisions of the Declaration. The Lot or Unit Owner or Owners receiving the largest number of Votes shall be elected. Cumulative voting shall not be permitted.

Section 5.5 Number and Term of Office.

5.5.1 During the Declarant Control Period, the Board shall consist of three (3) Directors appointed by Declarant. Each such Director shall serve at the pleasure of Declarant; provided, however, not later than sixty (60) days after conveyance of twenty-five percent (25%) of the Lots and Units to Owners other than Declarant, at least one member of the Board shall be elected by Owners other than Declarant. Furthermore, Declarant's rights to appoint or remove all Directors and Officers or to exercise powers and responsibilities otherwise assigned to the Association, Board or Officers by the Act or the Instruments shall cease and terminate upon the first to occur of: (i) the expiration of seven (7) years after the date of recording of the Declaration; (ii) one hundred twenty (120) days after the date as of which Lots or Units to which eighty-five (85%) of the undivided interests in the Common Areas And Facilities appertain, shall have been conveyed by Declarant to Owners; (iii) two (2) years after Declarant has ceased to offer Lots or Units for sale in the ordinary course of business; (iv) two (2) years after the right to add new Lots or Units set forth in Section 7.2 of the Declaration which was last exercised; or (v) the surrender by Declarant of such rights by an express amendment to the Declaration.

5.5.2 After the expiration of the Declarant Control Period, the Board shall consist of five (5) Directors with each having a three (3) year term of office. The Directors shall be divided into three (3) classes with the terms of one class expiring each year. Directors replacing those appointed by Declarant shall be elected upon the expiration of the Declarant Control Period, but in no event more than ninety (90) days after the expiration thereof. If the next annual meeting



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occurs within that time period, the election shall be held at the annual meeting. If not, a special meeting may be called by any Owner for such purpose. In either case, Section 5.3 shall govern nominations. The term of the Director in the first class shall expire at the next annual meeting, the terms of the Director in the second class shall expire at the second annual meeting thereafter, and the terms of the Director in the third class shall expire at the third annual meeting thereafter. Each Director shall serve until his term expires and his successor has been elected and qualified, subject to removal, disqualification, or resignation.

Section 5.6 Removal. Any Director, other than those appointed by Declarant during the Declarant Control Period, may be removed from office with or without cause by a Vote of at least sixty-seven percent (67%) of the Owners at any meeting of the Association at which a quorum is present. Removal action may be taken at any annual or special meeting with respect to which notice of such purpose has been given. A removed Director's successor may be elected at the same meeting to serve the unexpired term.

Section 5.7 Vacancies. A vacancy occurring on the Board of Directors may be filled by a Majority of the Directors remaining in office though less than a quorum of the Board of Directors. The Director so elected by the Board shall serve until the next annual meeting, at which time a Director shall be elected by the Owners for the remaining term, if any.

Section 5.8 Compensation. Directors shall not receive compensation for their services as Directors. A Director may serve the Association in another capacity and receive compensation, if disclosed to the Board in advance in writing, except that such Directors as are appointed by Declarant shall not be entitled to receive compensation from the Association.

Section 5.9 Committees of the Board of Directors. The Board may designate from among its members an executive committee and one or more other committees, each consisting of at least two (2) Directors. Each committee shall have the authority set forth in the resolution establishing the committee.

#### ARTICLE VI

##### MEETINGS OF THE BOARD OF DIRECTORS

Section 6.1 Place of Meetings. Directors may hold their meetings at any place within reasonable proximity to the Development as the Board may from time to time establish.

Section 6.2 Regular Meetings. Regular meetings of the Board of Directors shall be held at least once every three (3) months on a regular schedule established by the Board.

Section 6.3 Special Meetings. Special meetings of the Board may be called by the President, the Secretary, or any two Directors.

Section 6.4 Notice of Meetings. No notice shall be required for regularly scheduled meetings. Notice of each special meeting shall be given to each Director stating the time, place and purpose of the meeting. The notice shall be given by mail deposited at least five (5) days

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before the meeting or by telephone, telegram, cablegram or personal delivery at least three (3) days before the meeting. Notice by telegram or cablegram shall be deemed delivered at the time the notice is filed with the transmitting agency. Notice by telephone or personal delivery shall be deemed effective only when actually communicated to the Director.

Section 6.5 Quorum. A quorum shall be deemed present throughout any meeting of the Board of Directors when Directors entitled to cast a Majority of the votes on the Board are present at the beginning of the meeting.

Section 6.6 Voting. Except as otherwise provided by law or in the Instruments, the act of a Majority of the Directors present at a meeting at which a quorum is present at the time shall be the act of the Board of Directors. Each Director shall have one equal vote on the Board, regardless of the Votes attributable to his Lot or Unit.

Section 6.7 Adjournments. Any meeting of the Board, whether or not a quorum is present, may be adjourned by a Majority of the Directors present to reconvene at a specific time and place. It shall not be necessary to give notice of the reconvened meeting or of the business to be transacted, other than by announcement at the meeting which was adjourned. Any business may be transacted which could have been transacted at the meeting which was adjourned, if a quorum is present at the reconvened meeting.

Section 6.8 Action by Directors Without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if a written consent is signed by all the Directors and is filed with the minutes of the Board. The consent shall have the same force and effect as a unanimous vote of the Board.

Section 6.9 Conduct of Meetings. The President shall preside over all meetings of the Board. The Secretary shall keep a minute book with all resolutions adopted by the Board, minutes of all meetings, and all written consents to actions taken without a meeting and proceedings occurring at such meetings. Robert's Rules of Order (latest edition) shall govern the conduct of the meetings, except to the extent inconsistent herewith.

#### ARTICLE VII

#### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 7.1 Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and Facilities, and the personal conduct of the Owners and their tenants, invitees and guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the recreational facilities of an Owner during any period in which such Owner shall be in default in the payment of any Assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days, for infraction of published rules and regulations;

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(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties, and

(f) foreclose the lien against any Lot or Unit for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same in accordance with and as authorized by the Declaration.

(g) exercise such other powers as are conferred upon the Association by the Articles of Incorporation or the Declaration.

(h) exercise all powers set forth in Section 55A-15 of the North Carolina Nonprofit Corporation Act.

(i) any other powers permitted by the Acts.

Section 7.2 Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Owners at the annual meeting of the Owners, or at any special meeting which such statement is requested in writing by one-fourth (1/4) of the Owners who are entitled to vote;

(b) supervise all officers, agents and employees of the Association and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the monthly Assessment against each Lot and Unit at least thirty (30) days in advance of each annual Assessment period; and

(2) send written notice of each change in the monthly Assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether any Assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment;

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- (e) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (f) cause the Common Areas and Facilities to be maintained;
- (g) within thirty (30) days after adoption of any proposed budget, the Board shall provide a summary of the budget to all Owners, and shall set a date for a meeting of the Association to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after the mailing of such summary. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting a Majority those present in person or by proxy reject the budget. In the event the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the Association ratifies a subsequent budget proposed by the Board;
- (h) to perform all other duties imposed by the Articles of Incorporation and the Declaration;
- (i) procure the insurance coverage set forth and required by the Declaration on behalf of the Association;
- (j) pay any license fees or governmental charges levied or imposed against the Common Areas and Facilities or other property, real or personal, owned by the Association; and
- (k) to perform such other duties as imposed by the Declaration and the Articles of Incorporation.

#### ARTICLE VIII

##### OFFICERS

Section 8.1 Number. The Officers of the Association shall consist of a President, one or more Vice Presidents as designated by the Board, a Secretary, a Treasurer and one or more Assistant Secretaries and Treasurers as designated by the Board. The Association shall not be required to have at any time any Officers other than a President, Secretary and Treasurer. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 8.2 Election and Term. All Officers shall be elected by the Board and shall serve at the pleasure of the Board. Only Directors shall qualify to hold the offices of President, Secretary and Treasurer.

Section 8.3 Compensation. Any compensation of Officers shall be fixed by the Board, subject to the approval of Owners having a Majority of Votes in the Association; provided, however, that no Officers appointed by Declarant shall receive any compensation from the Association.

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Section 8.4 Removal. Any Officer or agent elected by the Board may be removed by the Board at any meeting with respect to which notice of such purpose has been given to the Directors.

Section 8.5 President. The President shall be the chief executive officer of the Association and shall have responsibility for the general supervision of the business of the Association. He shall see that all orders and resolutions of the Board are carried into effect. The President shall perform such other duties as may from time to time be delegated to him by the Board. He shall have all the general powers and duties which are incident to the office of the President of a corporation organized under the North Carolina Nonprofit Corporation Act.

Section 8.6 Vice Presidents. The Vice President shall, in the absence or disability of the President, or at the direction of the President, have the duties and powers of the President. If the Association has more than one Vice President, the Board shall designate one of them to act for the President. Vice Presidents shall have whatever duties and powers the Board may from time to time assign.

Section 8.7 Secretary. The Secretary shall keep accurate and complete records of all meetings of Owners, Directors and committees of Directors, including minutes of the meetings, all resolutions adopted and all consents to actions without a meeting. He shall have authority to give all notices required by law, the Instruments or these Bylaws. He shall be custodian of the corporate books, records, contracts and other documents. The Secretary may affix the corporate seal to any lawfully executed documents requiring it and shall sign such instruments as may require his signature. The Secretary shall have whatever additional duties and powers the Board may from time to time assign him or may be incident to the office of secretary of a corporation organized under the North Carolina Nonprofit Corporation Act.

Section 8.8 Treasurer. The Treasurer shall have custody of all funds and securities belonging to the Association and shall receive, deposit or disburse them under the direction of the Board. The Treasurer shall keep full and true accounts of all receipts and disbursements and shall make reports to the Board and President upon request. He shall perform all duties as may be assigned to him from time to time by the Board. The Treasurer shall prepare or cause to be prepared all required financial statements, tax returns and budgets. If the Association employs a property manager, accountant, attorney or other agent, the duties may be delegated to the agent. However, the Treasurer shall remain responsible for supervising the agent.

Section 8.9 Assistant Secretary and Assistant Treasurer. The Assistant Secretary and Assistant Treasurer shall, in the absence or disability of the Secretary or the Treasurer, respectively, have the duties and powers of those offices. They shall, in general, perform any other duties assigned to them by the Board. Specifically, the Assistant Secretary may affix the corporate seal to all necessary documents and attest the signature of any Officer.

Section 8.10 Bonds. The Board may require any or all of the Officers, agents or employees of the Association to give bonds to the Association, with sufficient surety,

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conditioned on the faithful performance of the duties of their respective Offices or positions. In such event, the reasonable cost of same shall be borne by the Association.

#### ARTICLE IX

##### MISCELLANEOUS

Section 9.1 Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the thirty-first (31st) day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association.

Section 9.2 Seal. The corporate seal of the Association shall be in circular form having within its circumference the words: Bedford Place Of Brevard Homeowners' Association, Inc. - Corporate Seal.

Section 9.3 Inspection of Books and Records. All accounts, books and records of the Association, including the Instruments, shall be open to inspection by the Owners, Mortgagees and prospective purchasers during normal business hours, subject to such reasonable rules as the Board may establish.

Section 9.4 Indemnification. Each Director or Officer shall be indemnified by the Association against those expenses which are allowed by the laws of North Carolina and which are reasonably incurred in connection with any action, suit or proceeding, whether completed, pending or threatened, in which such person may be involved by reason of his being or have been a Director or Officer. Indemnification shall be made only in accordance with the laws of North Carolina. The Association may purchase and maintain insurance on behalf of any such Officers and Directors against any liabilities asserted against them whether or not the Association would have the power to indemnify the officers and Directors against the liability under the laws of North Carolina. If any expense or other amounts are paid by way of indemnification, other than by court order, by action of Owners or by an insurance carrier, the Association shall provide notice of such payment to the Owners in accordance with the laws of North Carolina.

Section 9.5 Waiver of Notice. Whenever any notice is required to be given to any Owner or Director, a waiver signed by the Director or Owner entitled to such notice, whether before or after the meeting to which the waiver pertains, shall be deemed equivalent to proper notice. Attendance at a meeting, whether in person or by proxy, shall be a waiver of notice of the time and place unless specific objection to improper notice is made when the meeting is called to order. Attendance shall also be a waiver as to all business transacted, unless specific objection is made before the objectionable business is put to a vote.


Section 9.6 Amendment. These Bylaws may be amended at a regular or special meeting of the Owners, by the Vote of a Majority of the quorum of Owners present in person or by proxy.

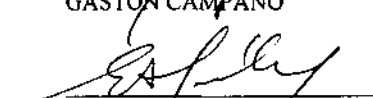
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Section 9.7 Self-Dealing. Each Director and Officer and any property manager shall disclose in the written minutes of the Board any contract or agreement of any kind between the Association and any person or entity to which is related by blood or marriage or in which he has an interest, whether direct or indirect.

Section 9.8 Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, we, being all of the Directors of Bedford Place Of Brevard Homeowners' Association, Inc. have hereunto set our hands this 20<sup>th</sup> day of March, 2002.

  
\_\_\_\_\_  
GASTON CAMPANO

  
\_\_\_\_\_  
EDMUNDO HERNANDEZ

  
\_\_\_\_\_  
LORI GARCIA-HERNANDEZ

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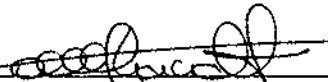
CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of the Bedford Place Of Brevard Homeowners' Association, Inc., a North Carolina nonprofit corporation, and

That the foregoing Bylaws constitute the original Bylaws of such Association, and were duly adopted at a meeting of the Board of Directors thereof, held on the 20<sup>th</sup> day of March, 2002.

IN WITNESS WHEREOF, I have hereunto subscribed by name and affixed the seal of the Association this 20<sup>th</sup> day of March, 2002.

  
Secretary



This instrument prepared by and return to:  
John E. Tate, Jr.  
Attorney at Law  
Suite C, 100 Chadwick Square Court  
Hendersonville, NC 28739

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ARTICLES OF INCORPORATION

OF

BEDFORD PLACE OF BREVARD HOMEOWNERS' ASSOCIATION, INC.

The undersigned, being of the age of eighteen years or more, does hereby make and acknowledge these Articles of Incorporation pursuant to Chapter 55A of the General Statutes for the purpose of forming a Nonprofit Corporation under and by virtue of the laws of the State of North Carolina.

ARTICLE I

NAME

The name of the corporation is BEDFORD PLACE OF BREVARD HOMEOWNERS' ASSOCIATION, INC., hereinafter called the "Association".

ARTICLE II

DURATION

The Association's period of duration shall be concurrent with the period during which that certain Declaration of Condominium, Covenants and Restrictions for Bedford Place recorded in the Transylvania County Registry (hereinafter referred to as the "Declaration") shall affect or restrict the use of the Property described on Exhibit A attached hereto and incorporated herein by this reference, as the description of the Property may be amended from time to time or until the Association shall be sooner terminated pursuant to these Articles. All definitions set

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forth in Article 1 of the Declaration shall have the same meanings as set forth therein in these Articles of Incorporation.

ARTICLE III  
PRINCIPAL AND REGISTERED OFFICE AND AGENT

The address of the initial registered office of the Association is Suite C, 101 Chadwick Square Court, Henderson County, Hendersonville, North Carolina 28739. The name of the initial registered agent at that address is Gaston Campano.

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, management, preservation and architectural control of the Submitted Property and the Development, as it may exist from time to time, which is subject to the Declaration and to promote the health, safety and welfare of the Owners within the Submitted Property, as it may exist from time to time, and 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 and as the same may be amended from time to time as therein provided;
- (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;

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(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 two-thirds (2/3rds) of the Owners and Mortgagees, 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 Areas And Facilities to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners, but no such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3rds) of the Owners and first Mortgagees, agreeing to such dedication, sale or transfer (neither the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas and Facilities or Limited Common Areas and Facilities by the Condominium or the Development nor the transfer, sale or encumbrance of an undivided interest in the Common Areas And Facilities or Limited Common Areas And Facilities, as an appurtenance to a Unit or Lot, shall be deemed a dedication, sale or transfer within the meaning of this subparagraph);

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes, provided that any such merger or consolidation shall be effected as provided in the Declaration;

(g) have and to exercise any and all powers, rights, and privileges which a corporation organized under the North Carolina Nonprofit Corporation Act, N.C.G.S. §55A-1, et. seq., by law may now or hereafter have or exercise.

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The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration.

ARTICLE V

NONPROFIT ASSOCIATION

No part of the net earnings of the Association shall inure to the benefit of any Officer, Director or member of the Association. All funds and property acquired by the Association and the proceeds therefrom shall be held only for the benefit of the members of the Association in accordance with the provisions of the Declaration.

ARTICLE VI

MEMBERSHIP

Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot or Unit shall be a member of the Association and no other persons shall be entitled to membership in the Association. The foregoing is not intended to include persons or entities who hold an interest in any Lot or Unit merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Unit or Lot, which is subject to Assessment by the Association.

ARTICLE VII

BOARD OF DIRECTORS

Following the expiration of the Declarant Control Period, the Board shall consist of five (5) Directors who must each be a Lot Owner, a Unit Owner or a member, partner or officer of a Lot or Unit Owner. Of the five (5) Board Members, Two (2) shall be the Owner of a Lot, and Two (2) shall be the owner of a Unit, as those are referred to in Section 3.1 of the Declaration. The remaining Board Member shall be elected at large from all of the Owners. During the

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Declarant Control Period provided in Section 7.2 of the Declaration, the Board shall consist of three (3) Directors who need not be Lot Owners or Unit Owners or a Member, Partner, or officer of a Lot Owner or Unit Owner and shall be appointed by the Declarant as provided in the Declaration. The number of directors may be changed by amendment of the Bylaws of the Association. The names and addresses of the persons who are to act in the capacity of the initial Directors until the selection of their successors at the first meeting of the Association, or appointment of others by Declarant, are:

<u>DIRECTOR</u>	<u>ADDRESS</u>
Gaston Campano	Suite C, 101 Chadwick Square Court Hendersonville, NC 28739
Edmundo Hernandez	Suite C, 101 Chadwick Square Court Hendersonville, NC 28739
Lori Garcia-Hernandez	Suite C, 101 Chadwick Square Court Hendersonville, NC 28739

ARTICLE VIII

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3rds) of the Owners and First Mortgagees. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall first be offered to the public and thereafter if such offer is not accepted, 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 nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

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ARTICLE IX

AMENDMENTS

Amendment of these Articles of Incorporation shall require the affirmative Vote of the Owners having at least seventy-five percent (75%) of the total Vote of the Association.

ARTICLE X

INCORPORATOR

The name and address of the incorporator of the Association is: Gaston Campano, Suite C, 101 Chadwick Square Court, Hendersonville, North Carolina 28739.

IN WITNESS WHEREOF, I have set my hand and seal this the 20<sup>th</sup> day of March, 2002.

 (SEAL)  
GASTON CAMPANO

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EXHIBIT A  
to  
Articles of Incorporation  
Of  
BEDFORD PLACE HOMEOWNERS' ASSOCIATION, INC.

BEGINNING at an existing nail, said existing nail being located in the center line of the right of way of Osborne Road (S.R. 1556), said Beginning Point located South 84° 34' 19" East 1929.07 feet from N.C.G.S. Monument "STRAUS", bearing coordinates N=566807.559 feet, E=889232.207 feet, NAD 83 scale factor=0.9998726, Elevation (NGVD 29)=2164.63 feet AND RUNNING THENCE FROM SAID POINT AND PLACE OF BEGINNING along and with the center line of the right of way of Osborne Road the following courses and distances: North 82° 50' 33" East 58.27 feet, North 79° 31' 39" East 54.38 feet, North 78° 04' 21" East 75.80 feet, North 76° 56' 54" East 74.99 feet and North 78° 36' 49" East 77.49 feet to an existing railroad spike; thence leaving the center line of the right of way of Osborne Road, along and with the western boundary of the property of (now or formerly) Weaver as described in Deed Book 402, Page 452; South 01° 02' 47" East 210.01 feet to an axle control corner, having a bench mark of 2,209.06 feet at the top of said axle; thence along and with the southern or southwestern boundary of the property of (now or formerly) Weaver, South 69° 01' 24" East 139.66 feet to an axle; thence continuing along and with the southern or southwestern boundary of the property of (now or formerly) Weaver, South 68° 04' 32" East 56.82 feet to an existing iron pin; thence leaving the boundary of the property of (now or formerly) Weaver and running along and with the western or northwestern boundary of the property of (now or formerly) Osborne as described in Deed Book 141, Page 34, South 36° 22' 17" West 467.81 feet to an existing iron pin, said existing iron pin being a common corner with the property of (now or formerly) Sitton as described in Deed Book 179, Page 627; thence along and with Northern or northeastern boundary of the property of (now or formerly) Sitton North 60° 26' 17" West 109.95 feet to an existing iron pin; thence along and with the western or northwestern boundary of the property of Sitton, South 20° 16' 39" West 247.32 feet to an existing iron pin; thence along and with the northern or northeastern boundary of the property of (now or formerly) Dobbins as described in Deed Book 442, Page 440, North 65° 23' 08" West 493.62 feet to an existing iron pin; said existing iron pin being the northeasternmost corner of the property of (now or formerly) Eldridge as described in Deed Book 370, Page 67; thence along and with the northern boundary of the property of (now or formerly) Eldridge, passing an existing concrete monument at 11.28 feet, North 65° 22' 58" West 119.35 feet to an existing concrete monument, said existing concrete monument being the southern or southeasternmost corner of the property of (now or formerly) Smith as described in Deed Book 386, Page 239; along and with the eastern or southeastern boundary of the property of (now or formerly) Smith, North 23° 55' 45" East 299.45 feet to an existing concrete monument; thence along and with the southern or southwestern boundary of the property of (now or formerly) Gardner as described in Deed Book 322, Page 652, South 62° 07' 18" East 90.08 feet to an axle with a bench mark at the top of said axle bearing 2153.09 feet; thence along and with the eastern or southeastern boundary of the property of (now or formerly) Vaughn as described in Deed Book 454, Page 223, Transylvania County Registry, North 29° 18' 06" East 196.89 feet to an existing iron pin, said existing iron pin being the southwesternmost corner of the property of (now or formerly) Fisher as described in Deed Book 19, Page 729; thence along and with the southern boundary of the property of (now or formerly) Fisher, South 76° 45' 44" East 154.27 feet to an existing iron pin in PVC; thence along and with the eastern boundary of the property (now or formerly) Fisher, North 25° 38' 33" East 85.75 feet to an existing iron pin and North 08° 02' 05" East 70.69 feet to the point and place of BEGINNING and being a tract or parcel of land containing 10.2 acres more or less as shown on plat of survey thereof entitled "Map of Boundary and Topography for Glade Holdings, Inc." prepared by Associated Land Surveyors, dated June 6, 2001.