

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR  
PALMER LAKE VILLAS**

Prepared by & Returned to:

**STATE OF VIRGINIA, COUNTY OF NORTHAMPTON**

This **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PALMER LAKE VILLAS** ("Declaration"), is made and entered into as of this \_\_\_\_ day of August, 2020, by **Bay Creek Development, LLC**, a Virginia limited liability company, with a principal office address of 11675 Rainwater Dr., Suite 220, Alpharetta, Georgia, 30009 ("Declarant").

**RECITALS:**

WHEREAS, Declarant is the owner of certain real property located in Northampton County, Virginia, known as PALMER LAKE VILLAS (referred to herein as "the Villas") which consists or will consist of duplex-style single-family residential dwellings, which real property is more particularly described by Exhibit A, attached hereto and incorporated by reference herein (the "Property");

WHEREAS, Declarant now owns or may acquire other lands which may be added to the Villas at Declarant's option and subject to the terms and conditions of the Master Declaration of Covenants, Conditions and Restrictions for Bay Creek at Cape Charles, recorded in Book 316, Page 656, in the Northampton Circuit Court (together with all amendments thereto recorded in accordance with the provisions thereof, the "Master Declaration");

WHEREAS, on June 17, 2005, Bay Creek, LLC, as Declarant under the Master Declaration, created a new subdivision within the Bay Creek at Cape Charles planned unit development known as the Fairways Neighborhood and in connection therewith caused to be recorded as Instrument #050002310 in the Northampton Circuit Court, a Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to the Fairways Neighborhood. ("the Fairways Neighborhood" and the "Fairways Declaration");

WHEREAS, on January 30, 2020, Bay Creek South, LLC, as successor declarant under the Master Declaration, caused to be recorded as Instrument # 200000166 in the Northampton County Circuit Court, a certain Amendment to the Declaration of Covenants, Conditions and Restrictions for Bay Creek at Cape Charles (the "Amended Master Declaration") (unless otherwise defined herein, all terms defined in the Amended Master Declaration shall have the same meanings in this Declaration);

WHEREAS, the Villas and the Property are subject to this Declaration, the Fairways Declaration, and the Amended Master Declaration;

WHEREAS, Declarant desires to subject the Property to these protective covenants and form an association of owners within the Villas to provide for, among other things, the preservation of the property values and the desirability and attractiveness of the real property containing the Villas, and to provide for the establishment and the continued maintenance of the Limited Common Area and the Lawn Maintenance and Landscape Elements (as defined below) within the Villas; and

WHEREAS, Bay Creek Development, LLC, as owner of, and holder of Declarant rights with respect to the Property, executes this Declaration in order to impose the covenants, conditions, and restrictions herein upon the Property.

NOW THEREFORE, Declarant declares that the Property shall be held, sold, and conveyed subject to the Virginia Property Owners Association Act (the "Act"), as set forth in Section 55.1-1800 et seq. of the Code of Virginia, 1950, as amended, as well as the following easements, restrictions, covenants, and conditions. These protective covenants shall be binding on and shall inure to the benefit of all parties having any right, title or interest in the Property or any part thereof, their heirs, successors, and assigns.

## **ARTICLE I**

### **Definitions**

The definitions of terms as set out in the Master Declaration, except as specifically modified or changed by this Declaration, are adopted and incorporated herein by reference.

The following additional definitions shall apply for purposes of this Declaration:

"Association" shall mean and refer to The Palmer Lake Villas Property Owners' Association, Inc., with a principal office address of 11675 Rainwater Drive, Suite 220, Alpharetta, Georgia, 30009, and its successors and assigns.

"Board of Directors" or "Board" shall be used interchangeably and shall mean the body responsible for administration of the Association.

"Common Area" shall mean all real and personal property, including easements, in which the Association owns, leases, or otherwise holds possessory, or use rights, for the common use and enjoyment of the owners of the Villas and the owners of property in the Fairways Neighborhood, if any.

"Common Expenses" shall mean any and all expenditures made by or financial liabilities of the Association, together with any allocations to reserves, pursuant to and in accordance with this Declaration.

"Fairways Neighborhood Association" shall mean the property owners' association formed pursuant to the Fairways Declaration.

"Fairways Neighborhood Association Common Area" shall mean all real and personal property, including easements, in which the Association or the Fairways Neighborhood Association owns, leases, or otherwise holds possessory or use rights for the common use and enjoyment of the owners of property in the Fairways Neighborhood.

"The Villas Guidelines" shall mean the guidelines and standards for design, landscaping, care, and grooming of Lawn Maintenance and Landscape Elements, as said guidelines and standards may be amended from time to time. The initial Villas Guidelines shall be prepared by the Declarant, who shall have the sole and full authority to amend the same during the Declarant Control Period (as said period is defined in Article XII). After the Declarant Control Period, the Association may amend the Villas Guidelines if sixty-seven percent (67%) of the then Lot Owners agree. The Declarant or, after the Declarant Control Period, the Association, shall make the Villas Landscape Guidelines available to Owners but shall not be required to record the same.

"Lawn Maintenance and Landscape Elements" shall mean all real and personal property, including easements, which the Declarant or the Association may maintain within the Property from time to time. This term shall include the care and grooming of all vegetative elements existing on each Lot beginning at the time said Lot is conveyed from Declarant or a builder to a Member of the Villas.

"Limited Common Area" shall mean all real and personal property designated under this Declaration or the Amended Master Declaration, as the same may be amended from time to time, for the exclusive use or primary benefit of Owners and occupants within the Villas, as more particularly described in this Declaration. Limited Common Areas may be designated in the Amended Master Declaration, this Declaration, or may be shown and designated on any plats or maps recorded in the Northampton County Circuit Court pursuant to this Declaration, the master Declaration, or Amended Master Declaration; or which may be designated in any supplemental declaration or amend declaration annexing additional properties. Unless the Declarant or the declarant under the Amended Master Declaration designates and reserves the Limited Common Area for the exclusive use of specific Lots, then the Limited Common Area shall be deemed to serve all of the Lots within the Villas, and all costs associated with the maintenance, repair, replacement and insurance thereof shall be a Common Expense for the Villas owners.

"Lot" shall mean any portion of the Property, whether improved or unimproved, designated for separate ownership by an Owner and shown on a recorded subdivision plat. The term shall refer to the land, if any, which is part of the Lot as well as any improvements thereon.

"Master Association" shall mean Bay Creek at Cape Charles Community Association, Inc., a Virginia nonprofit corporation with a principal office address of 4605 Pembroke Lake Circle, Suite 302, Virginia Beach, Virginia 23455, and its successors and assigns.

"Master Governing Documents" shall mean the Amended Master Declaration and any amendments and supplemental declarations thereto, the By-Laws and Articles of Incorporation of the Master Association, the Architectural Design Standards, the Restrictions and Rules, resolutions by the Master Association Board of Directors, and recorded plats affecting the

property as anyone or more of which may be lawfully amended from time to time.

“The Villas Governing Documents” shall mean the Amended Master Declaration, the Fairways Declaration, this Declaration and any amendments and supplemental declarations thereto, the By-Laws and Articles of Incorporation of the Association, the Architectural Design Standards, the Restrictions and Rules, resolutions by the Association Board of Directors, and recorded plats of the Villas, as anyone or more of which may be amended from time to time.

"Member" shall mean a person subject to membership in the Villas Association pursuant to Article IV.

"Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot, but excluding those parties who have an interest in a Lot merely as security for the performance of an obligation.

"Unit" shall mean a residential dwelling constructed upon a Lot.

## **ARTICLE II Amended Master Declaration**

Declarant hereby adopts by reference, as if fully set forth herein, all provisions of the Amended Master Declaration, and any supplements or amendments thereto presently existing or hereafter adopted.

## **ARTICLE III Architectural Design Standards**

In addition to the guidelines and restrictions contained in the Master Declaration and this Declaration, the Property shall be subject to any architectural design standards for the Villas (the "Villas Architectural Standards") which may be adopted by the Architectural Control Committee (herein the "ACC") of the Master Association in accordance with the provisions of the Master Declaration.

## **ARTICLE IV Membership and Voting**

Section 1. Membership and Voting Rights. Every Owner of a Lot which is subject to this Declaration shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Such membership is not intended to apply to those persons or entities holding an interest in any Lot merely as security for the performance of an obligation to pay money, e.g., mortgages or deeds of trust; however, if such secured party should realize upon its security and become the fee owner of a tract, it and its assigns will be subject to all of the requirements and limitations imposed in these protective covenants on Owners of tracts within the Villas, including those provisions with respect to payment of Assessments.

Section 2. Membership Classes. The Association shall initially have two classes of voting

membership (additional classes of membership may be added to the Association by Declarant in the event that additional property is annexed to the Villas):

(a) Class "A". Class A Members shall be all Lot Owners except the Class "B" Member, if any.

(b) Class "B". The sole Class B Member shall be the Declarant.

Section 3. Voting Rights. The voting rights of each class of membership shall be as follows:

(a) The Class A Members shall be entitled to one vote for each Lot owned within the Villas. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting with respect to any Lot is hereby prohibited.

(b) The Class B Member shall be entitled to 16 (16) votes for each platted Lot in the Villas. The Class B Membership shall cease and be converted to a Class A Membership when Declarant completes construction upon and conveys all Lots to third parties or upon Declarant's voluntary surrender of its Class B Membership.

The period during which there is Class B Membership is sometimes referred to herein as the "Declarant Control Period." During the Declarant Control Period, the Declarant shall have the rights, among others, to designate and select the Board and the right to remove any person or persons designated and selected by the Declarant to serve on the Board, and to replace them for the remainder of the term of any person designated and selected by the Declarant to serve on the Board who may resign, die, or be removed by the Declarant.

Section 4. Rights of the Association. The Association may exercise any right or privilege given to it expressly by this Declaration, the By-Laws of the Association, the Virginia Property Owners' Association Act, as set forth in the Act, or reasonably implied from or reasonably necessary to effectuate any such right or privilege, including but not limited to the right to perform cosmetic maintenance such as mowing and planting and creation and maintenance of stormwater retention facilities, which facilities adjoin but might not be located within the Property. Except as otherwise specifically provided in this Declaration, the By-Laws or the Articles of Incorporation of the Association, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

## **ARTICLE V**

### **Limited Common Areas**

Section 1. Owners' Easements of Enjoyment. Every Owner whose Lot has assigned to it a Limited Common Area shall have a right and easement of use, access, and enjoyment in and to the Limited Common Area, which rights shall be appurtenant to and shall pass with the respective title to every Lot, subject to the following provisions: a) the Declaration, Bylaws, and rules and regulations and the Master Governing Documents; b) any restrictions or limitations in any deed or other instrument conveying any portion of the Limited Common Area to the Association or the Master Association; c) the right of the Board to adopt rules regulating the use

and enjoyment of the Limited Common Area and improvements thereon, including rules restricting use of the Limited Common Area to Owners and occupants of Lots and their guests, and rules limiting the number of guests who may use the Limited Common Area; and the right of the Board to establish penalties for any infractions thereof; d) the right of the Board to impose reasonable charges, fines and other sanctions for late payment of assessments or other violations; e) the right of the Master Association, acting through the Master Association's Board of Directors, to dedicate or transfer all or part of the Limited Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association; f) the right of the declarant under the Amended Master Declaration to assign use of all or part of the Limited Common Area to additional neighborhoods within Bay Creek at Cape Charles, as provided in the Amended Master Declaration; g) the right of the declarant under the Amended Master Declaration to redesignate all or part of the Limited Common Area, whereupon the costs of maintenance thereof may be deemed a Master Association Common Expense; h) the right of the owner of all or part of the Limited Common Area to convey such area to the Association or the Master Association as provided in the Amended Master Declaration; i) the right of the Master Association, acting through the Master Association's Board of Directors, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and j) easements as provided in this Declaration and in the Amended Master Declaration.

## **Article VI Maintenance, Repair and Replacement**

Section 1. Responsibility of the Association - Limited Common Elements. The Association will maintain, repair and replace all portions of the Limited Common Area, except the portions of any Limited Common Area which are required by this Declaration to be maintained, repaired or replaced by Owners to which the Limited Common Area is allocated and except for any maintenance or repairs caused by the negligence or intentional misconduct of any Owner, his agents, invitees or family members, which shall be the responsibility of that Owner. The actual and estimated expenses of maintaining, operating, repairing, and replacing the Limited Common Area, including insurance, reasonable reserves, and utilities, as the Board may find necessary and appropriate pursuant to the Declaration for the benefit of the Limited Common Area, shall be assessed at a uniform rate to all Units.

Section 2. Responsibility of the Association - Units. In addition to maintenance of the Limited Common Elements, the Association, and not the individual Owners, shall provide certain scheduled exterior maintenance upon each Unit, which maintenance will include: the scheduled repainting and resurfacing of all exterior building surfaces, including the exterior doors and garage doors; the scheduled replacement of roofs, including the removal. & replacement of shingles, flashing, venting and moisture barrier materials; the routine maintenance of Lawn Maintenance and Landscape Elements upon each Lot (as more particularly described in Article VII); and the maintenance of gutters and downspouts. Such exterior maintenance shall not include maintenance of glass surfaces, exterior doors, and window frames (re: entire window unit) unless approved by the Board, except the Association shall be responsible for painting exterior doors. With regard to the scheduled roof replacement, the Association shall not be responsible for any repair and/or replacement of the sheathing or underlying wood support members within the roof system. With regard to the scheduled exterior repainting, the

Association shall not be responsible for the staining or painting of any horizontal wood surfaces on decks, porches or steps. All such exterior maintenance of Units will be provided by the Association on a schedule and to a scope of work appropriate to meet the reasonable standards determined by the Board, in its discretion, and not on a schedule or to a scope as directed, requested or specified by any specific Owner. The cost of the exterior maintenance upon each Unit will be included in the Base Assessments and shall be levied at a uniform rate against all Units. No Owner may exempt himself or herself from liability for assessments for exterior maintenance provided by the Association. In the event the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests, invitees, or licensees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Unit is subject. Exterior maintenance services may be modified by the Board as it deems reasonable and appropriate.

Section 3. Responsibility of the Owner. Except for the maintenance provided by the Association as described in Sections 1 and 2 of this Article, each Owner will be responsible for all other required maintenance of the exterior and interior of his or her Lot and Unit, including the fixtures and utilities located in the Unit to the extent current repair shall be necessary in order to avoid damaging other persons, Units, Lots or the Limited Common Areas. All fixtures, equipment, and utilities installed and included in a Unit commencing at a point where the fixtures, equipment, and utilities enter the Unit shall be maintained and kept in repair by the Owner. The Owner at the Owner's expense shall maintain, repair or replace the heating and air-conditioning units (HV AC), air handling units, heat exchanger, heat outlet, enclosures, and mechanical attachments. The Owner shall not allow any action of work that will impair the structural soundness of the improvements, impair the proper functioning of the utilities, heating, ventilation, or plumbing systems or integrity of any townhome building, or impair any easement or hereditament. An Owner is responsible for a repair resulting from a casualty occurring within, or affecting the inside of the Unit. Each Owner shall be responsible for removing all snow, leaves, and debris from all doorsteps or stoops appurtenant to his or her Unit.

Section 4. Association's Right to Maintain Lots and Units. If an Owner of any Unit or Lot fails to maintain that Unit or Lot and the improvements thereon in accordance with this Article in a manner reasonably satisfactory to the Board, in its sole discretion, the Board shall give written notice to such Owner and, if the necessary maintenance is not completed within thirty (30) days, the Association shall have the right, through its agents, contractors, and employees, to enter upon the Unit and Lot of the defaulting Owner and to repair, maintain and restore the Lot, the Unit and the exterior of the building and other improvements erected thereon in a reasonable and good and workmanlike manner. The cost of such repair, maintenance or restoration shall immediately be deemed a Specific Assessment levied by the Association against such Owner and such Owner's Unit, shall become the personal obligation of such Owner, and shall become a lien against such Unit, enforceable in accordance with this Declaration, the Fairways Declaration, the Amended Master Declaration, and governing law. In the event of an emergency (as so deemed by the Board in its reasonable discretion), the Association shall have the right, with or without prior notice to the Owner, to enter any Lot and Unit to make emergency repairs necessary for the proper maintenance and operation of the Property.

Section 5. Responsibility of the Fairways Neighborhood Association. In accordance with the Fairways Declaration, the Fairways Neighborhood Association will repair, maintain, and replace

all portions of the Fairways Neighborhood Association Common Area, specifically including, without limitation, all roads, streets, light poles, ponds, mailboxes, and landscaping elements,

Section 6. Responsibility of the Association. The Association will repair, maintain, and replace all portions of the Common Area.

## **ARTICLE VII**

### **Lawn Maintenance and Entrance Features,**

Section 1. Lawn Maintenance. Lawn maintenance, as more particularly described in the Villas Landscape Guidelines, will be provided by the Association for all Lots unless the Declarant, by a supplemental declaration, excludes any such Lots from receiving lawn maintenance. The cost of Lawn Maintenance, including irrigation, for each Lot will be included in the Base Assessments.

Section 2. Entrance Features. The Association will maintain all entrance features serving the Villas.

## **ARTICLE VIII**

### **Insurance and Reconstruction**

Section 1. Insurance Obtained by the Association. As and to the extent required by the Act, the Board, on behalf of the Association, shall obtain and maintain adequate and appropriate insurance in accordance with the following provisions:

A. Property Insurance. The Association shall obtain and maintain at all times a policy or policies of property insurance (ISO special form or its equivalent) covering all buildings located on the Property in an amount not less than one hundred percent (100%) of the replacement cost of the such buildings, including all Units and insurable original interior fixtures, in accordance with the plans and specifications for the original development of the Property, at the time such insurance is purchased and at the time of each renewal thereof, exclusive of the costs of excavation, paving, foundations and footings, with a commercially reasonable deductible. Each policy shall show the Association as the named insured, but shall provide that each Owner is an insured person with respect to his Unit, and that the Association is an insured person with respect to the Limited Common Areas; shall contain clauses providing for waiver of subrogation against any Owner and any Owner's employees or agents; shall provide that it may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association and all insureds, including all Owners and all Mortgagees; shall provide that no act or omission by any Owner will preclude recovery upon such policy; and shall provide that if, at the time of a loss under the policy, there is no other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance. Each policy shall contain an inflation guard endorsement and a construction code endorsement if available. Each policy shall provide that adjustment of loss shall be made by the Association as insurance trustee, and shall provide for the issuance of certificates of mortgagee endorsements to all Mortgagees.

B. Liability Insurance. The Association shall obtain and maintain a policy of commercial general liability insurance in such limits as the Association may, from time to time, determine, covering each member of the Board, the property manager, if any, and each Owner with respect to liability arising out of the use, ownership, maintenance, or repair of the Limited Common Areas; provided, however, that in no event shall the limits of such policy ever be less than \$1,000,000.00 per occurrence. The liability insurance policy shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner, and shall provide that it may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association and to all insureds, including all Owners and all Mortgagees. The Association shall review such limits annually.

C. Other Insurance. The Board, or its duly authorized agent, shall have the authority to and shall obtain and maintain in effect such other insurance coverages as may be required by any Agency and such other insurance coverages as the Board shall determine from time to time to be desirable, specifically including without limitation, directors and officers liability insurance, fidelity insurance, performance bonds, payment on labor and material bonds, and maintenance bonds.

Section 2. Premiums and Deductibles. Premiums upon insurance policies purchased by the Association shall be paid by the Association and charged as an expense of the Association. In the event any Owner fails or refuses to pay assessments needed to pay insurance premiums or deductibles when due, the Association may pay said premium or deductible and levy against the nonpaying Owner a Specific Assessment as set forth herein, which shall be a lien upon the Unit until paid in full. The amount of the said assessment may include not only the actual cost of the premiums, and any late payment fees, the cost of the deductibles, but also an administrative charge payable to the Association, interest, and any and all attorneys' fees incurred in connection with the collection of such assessments, penalties and fees.

In the event of a loss or damage to the Limited Common Elements, which may be covered by any insurance maintained by the Association, the deductible shall be paid as a Common Expense of the Association. In the event of a loss or damage to any part of a Unit or Units which an Owner is obligated to maintain, repair, or replace, which may be covered by any insurance maintained by the Association, the deductible shall be paid by the Owners affected. Whenever a loss or damage occurs to the Limited Common Elements and a Unit or multiple Units and such loss or damage may be covered by any insurance maintained by the Association, the deductible shall be paid on a pro rata basis, based on the amount of the covered loss or damage received by the Owners and Association as they are affected. For example: if a covered loss or damage occurs in the total amount of \$100,000, with a \$60,000 loss to the Limited Common Elements, a \$10,000 loss to unit "A" and a \$30,000 loss to unit "B", the Association shall pay 60% of the deductible as a Common Expense, Unit Owner "A" will pay 10% of the deductible, and Unit Owner "B" will pay the remaining 30% of the deductible.

Section 3. General Standards. All insurance policies maintained by the Association under this Article shall comply with the terms required by governing Virginia law and shall be written with a company or companies licensed to do business in the State of Virginia and holding a rating of A or better in *Best's Insurance Guide*. In the event a company with at least such a rating is not available, such insurance is to be obtained from a company with the highest rating available in

*Best's Insurance Guide*. Upon request, duplicate originals of all such policies or certificates of insurance shall be furnished to all Owners and Mortgagees.

Section 4. Owners' Insurance. It shall be the responsibility of each Owner, at such Owner's expense, to maintain additional fire and casualty and extended coverage insurance upon the Owner's personal property and any alterations or other improvements made to the Unit, and public liability insurance. Each Owner shall obtain and maintain liability insurance in the amount of at least \$100,000.00 per occurrence. In addition, an Owner may obtain such other and additional insurance coverage on and in relation to the Owner's Unit as the Owner, in the Owner's sole discretion, shall conclude to be desirable. However, no such insurance coverage obtained by the Owner shall operate to decrease the amount which the Board, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that insurance coverage. An Owner shall be liable to the Association for the amount of any such diminution of insurance proceeds to the Association resulting from insurance coverage maintained by the Owner, and the Association shall be entitled to collect the amount of the diminution from the Owner as if the amount were an Individual Assessment, with the understanding that the Association may impose and foreclose a lien for the payment due. Any insurance obtained by an Owner shall include a provision waiving its particular insurance company's right of subrogation against the Association, Declarant, the delarant under the Master Declaration, and the other Owners. The Board may require an Owner to file copies of such policies with the Association within thirty (30) days after purchase of the coverage.

Section 5. Distribution of Insurance Proceeds. All policies of property insurance procured by the Association shall provide that all losses shall be adjusted with, and all proceeds shall be payable to, the Association as insurance trustee. The Association shall have exclusive authority to negotiate any and all losses under such policies, and the Association is hereby irrevocably appointed as agent and attorney-in-fact for each Owner to adjust all claims arising under such policies and to execute and deliver releases upon the payment of claims. The duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust of the purposes set forth herein and for the benefit of the Owners and their Mortgagees as follows;

A. Proceeds on account of damage to any improvements in the Limited Common Areas shall be held by the Association and applied in the manner provided in Section 6 below.

B. Proceeds on account of damage to Units shall be held in undivided shares for the Owners of damaged Units in proportion to the cost of repairing the damage to each such Owner's Unit, which cost shall be determined by the Association.

C. In the event a mortgagee endorsement or certificate has been issued with respect to a Unit, the share of that Owner shall be held in trust for the Owner and its Mortgagee, as their respective interests may appear.

D. Proceeds of insurance policies received by the Association as insurance trustee shall be distributed to or for the benefit of the Owners in the manner provided in Section 6 below.

Section 6. Responsibility for Reconstruction or Repair. If any portion of the Property is damaged by perils covered by property insurance maintained by the Association, the Association shall cause such damaged portions to be promptly reconstructed or repaired with the proceeds of insurance available for that purpose, if any, and any such reconstruction or repair shall be substantially in accordance with the plans and specifications for the original development of the Property, except as may be expressly provided to the contrary pursuant to Virginia law. In addition, if such damage renders one or more of the then-existing Units on the Property uninhabitable, the Association may, with the affirmative vote of eighty percent (80%) of the votes of the Members and the written approval of the holders of eighty percent (80%) of the mortgages or deeds of trust then in force with respect to the Lots, and with the approval of one hundred percent (100%) of the Owners and Mortgagees of the damaged Units proposed not to be rebuilt, elect not to reconstruct or repair such damaged Units. A meeting shall be called within ninety (90) days after the occurrence of such casualty. Upon any such election, the insurance proceeds attributable to such damage shall be promptly distributed to the Owners whose Units were damaged, or to their Mortgagees in accordance with the terms of the mortgage covering that Lot, in proportion to the reasonable cost of repairing damage to such Units; provided, however, that no Owner shall receive any portion of his share of such proceeds until all liens and encumbrances on his Lot have been paid, released or discharged and any debris resulting from such damage or destruction has been removed from the Property.

If: (a) the proceeds of insurance are not sufficient to repair damage or destruction of any part of the Property by fire or other casualty, or (b) the damage or destruction is caused by any casualty not insured against, or (c) insurance proceeds are not available for repair or reconstruction by reason of the application of deductible clauses of applicable policies, then the repair or reconstruction of any damaged improvements within the Limited Common Areas shall be accomplished promptly by the Association and the extent of such repairs shall be an expense of the Association; and the repair or reconstruction of any improvements contained within any Lot shall be accomplished promptly by the Owner of the affected Lot at that Owner's expense.

Section 7. Procedure for Reconstruction or Repair. In the event of a casualty causing damage to any portion of the Property, the following provisions shall govern and apply:

A. Immediately after a casualty which causes damage to any portion of the Property, the Association shall obtain, or cause the affected Owners to obtain, reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board deems necessary.

B. If the proceeds of the casualty insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association (including the professional fees and premiums, if any), one or more special assessments shall be made against all Owners of the affected Lots (with respect to any deficiency in insurance proceeds for damage or destruction to Units or other improvements on Lots) or all Owners (with respect to any deficiency in insurance proceeds for damage or destruction to the Limited Common Areas or the improvements thereon) in sufficient amount to provide funds for the payment of such costs, and the proceeds of such special assessments shall be deposited with the Association; provided, however, that, the Association may borrow funds to pay for such costs with the assent of eighty percent (80%) of the members of the Association voting at a meeting duly called for such purpose.

C. The proceeds of the property insurance referred to in Section 1. above, and the sums deposited with the Association from collections of special assessments proceeds of authorized loans, as provided in Section 7(b), shall constitute a construction fund which shall be held by the Association and applied to the payment of the cost of reconstruction and repair of the Property from time to time as the work progresses, but not more frequently than once in any calendar month. The Association shall make such payments upon a certificate dated not more than fifteen (15) days prior to such request, signed by an architect in charge of the work who shall be selected by the Association, certifying that the sum then requested is justly due to contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and certifying that the sum requested does not exceed the value of the services and materials described in the certificate. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be disbursed to the Association which may use such excess funds for any purpose not in violation of this Declaration in the sole discretion of the Board.

## **ARTICLE IX**

### **Party Walls**

Section 1. General Rules of Law to Apply. Each wall that is built as a part of the original construction of the Units upon the Property and placed on the dividing line between the Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions shall apply thereto. If any portion of the original structures constructed on each Lot, including any party wall, any extension of a party wall, or any common fence, that protrudes over an adjoining Lot, or into the Limited Common Elements, such structure, wall or fence shall be deemed to be a permitted encroachment upon the adjoining Lot or Limited Common Area, and the Owners and the Association shall neither maintain any action for the removal of the structure, wall or fence, nor any action for damages. If there is a protrusion as described in the immediately preceding sentence, it shall be deemed that the affected Owners or the Association have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the encroaching structure, wall, or fence. The foregoing provision also shall apply to any replacements in conformance with the original structure, wall or fence. The provisions of this Section 1 shall be perpetual in duration and shall not be affected by an amendment of this Declaration.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or common fence shall be shared by the Owners who make use of the structure in proportion to such use.

Section 3. Destruction by Fire or other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or

willful acts or omission.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his or her negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Easement and Right of Entry for Repair, Maintenance, and Reconstruction. Every Owner shall have an easement and right of entry upon the Lot of any other Owner to the extent reasonably necessary to perform repair, maintenance, or reconstruction of a party wall. Such repair, maintenance, or reconstruction shall be done expeditiously, and upon completion of the work, the Owner shall restore the adjoining Lot or Lots to as near the same condition as that which prevailed prior to commencement of the work as is reasonably practicable.

## **ARTICLE X**

### **Covenants for Assessments**

Section 1. Creation of Lien and Personal Obligation of Assessments. Each Lot Owner covenants and agrees to pay to the Villas Association the following assessments, as applicable (collectively the "Assessments"): 1) Base Assessments; 2) Special Assessments; 3) Specific Assessments; 4) Insurance Assessments; and 5) Working Capital Assessments.

All assessments, together with interest from the due date of such assessment at a rate determined by the Board (not to exceed the highest rate allowed by Virginia law), late charges, costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Lot against which the assessment is made until paid. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees, also shall be the personal obligation of the person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of the conveyance. However, no first mortgagee who obtains title to a Lot by exercising the remedies provided in its mortgage or deed of trust, or any individual obtaining title by or through a foreclosure, shall be personally liable for unpaid assessments which accrued prior to such acquisition of title. In the event of any transfer of title to a Lot, the lien of the assessment shall not be extinguished.

Assessments levied by the Association shall be used for improvements and maintenance of the Limited Common Area, improvements and maintenance of the Lawn Maintenance and Landscape Elements on Lots, payment of utilities associated with the Lawn Maintenance and Landscaping Elements, enforcing this Declaration, paying taxes, insurance premiums, legal and accounting fees, governmental charges, establishing working capital, paying dues and assessments to any organization of which the Villas Association is a member and to the Master Association; and doing any other things necessary or desirable in the opinion of the Association to maintain the Property and the Lawn Maintenance and Landscape Elements to community-wide standards, and for such other expenditures as approved by the Board to promote the

recreation, health, safety, and welfare of the Owners and residents of the Property.

Section 2. Base Assessments. At least ninety (90) days before the beginning of each fiscal year, the Board shall adopt a proposed annual budget, as follows:

A. Budget for the Base Assessments for Lots within the Villas consisting of the annual cost of improvements and maintenance of the Lawn Maintenance and Landscape Elements, as said term is defined in Article I; improvements and maintenance of any Limited Common Area; payment of utilities associated with the Lawn Maintenance and Landscaping Elements; enforcing this Declaration; paying taxes, insurance premiums, legal and accounting fees; governmental charges; and establishing working capital; paying dues and assessments to any organization of which the Villas Association is a member; and doing any other things necessary or desirable in the opinion of the Association to maintain the Property and the Lawn Maintenance and Landscape Elements to community-wide standards, and for such other expenditures as approved by the Board to promote the recreation, health, safety, and welfare of the Owners and residents of the Property; and

B. Such other budgets as the Board deems appropriate.

Within thirty (30) days after adoption of the proposed budgets for the Villas, the Board shall provide to all Owners a summary of the budget and notice of a meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. Each budget is ratified unless at the meeting a majority of all of the Lot Owners in the Association entitled to vote on the particular budget reject the budget. All Members shall be entitled to vote on the budget for the Base Assessments. In the event a 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 Board. The Base Assessments for each Lot shall be established based on the annual budget thus adopted, with all Lots funding the budget for the lawn maintenance and landscaping; provided, however, that the first Base Assessments shall be set by the Declarant prior to the conveyance of the first Lot to an Owner. The due date for payment shall be established by the Board. The Board shall have the authority to require the Assessments to be paid in periodic installments. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. The Lot Owners shall pay all Master Association assessments directly to the Master Association in accordance with the Master Declaration and the Bylaws of the Master Association, as the same may be amended from time to time.

Section 3. Special Assessments. In addition to the Base Assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. The Board may establish the amount of the Special Assessment if it is One Thousand Dollars (\$1,000.00) or less in any assessment year for each Member. Except as otherwise specifically provided herein, any Special Assessment greater than \$1,000.00 shall require the affirmative vote or written consent of not less than one-half (1/2) of the Members which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in

which the Special Assessment is approved.

Section 4. Specific Assessments. The Association shall also have the power to levy Specific Assessments against a particular Lot as follows:

A. to cover the costs, including overhead and administrative costs, of providing services to the Lot upon request of an Owner pursuant to any menu of special services which may be offered by the Association. Specific Assessments for special services may be levied in advance of the provision of the requested service; and

B. to cover costs incurred in bringing the Lot into compliance with the Villas Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; provided that, to the extent required by law or the By-Laws, the Board shall give the Owner prior notice and an opportunity for a hearing before levying any Specific Assessment under this subsection.

Section 5. Insurance Assessments. All premiums on insurance policies purchased by the Board or its designee and any deductibles payable by the Association upon loss shall be a Common Expense, and the Association may at any time levy against the Owners equally an "Insurance Assessment", in addition to the Base Assessments, which shall be in an amount sufficient to pay the cost of all such deductibles and insurance premiums not included as a component of the Base Assessment.

Section 6. Working Capital Assessments. At the time title to a Lot is conveyed, the purchaser shall pay a contribution in an amount equal to four (4) months of the then-current annual assessment to the Association as working capital to be used for operating and capital expenses of the Association including but not limited to allocations to reserves and the maintenance of Limited Common Areas (this Working Capital Assessment is in addition to any similar assessment imposed by the Amended Master Declaration). Such amounts paid for working capital are not to be considered as advance payment of the Base Assessments or any other assessments.

Section 7. Rate of Assessment. The Association may differentiate in the amount of assessments charged for the Villas when a reasonable basis for distinction exists, such as between vacant Lots of record and Lots of record with completed dwellings for which certificates of occupancy have been issued by the appropriate governmental authority, or when any other substantial difference as a ground of distinction exists between Lots. Provided, however, that Assessments must be fixed at a uniform rate for all Lots similarly situated.

Section 8. Commencement of Assessments. Assessments for each Lot shall commence upon the date of acceptance by an Owner of a deed from Declarant. The Declarant shall not be obligated to pay any Assessments (but Declarant at its option may subsidize the Association until the Association has sufficient revenues).

Section 9. Effect of Nonpayment of Assessments and Remedies of the Association. Any Assessment or installment thereof not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate allowable by law. The Association may bring an

action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by abandonment of his Lot. All unpaid installment payments of the Assessments shall become immediately due and payable if an Owner fails to pay any installment within the time permitted. The Association may also establish and collect late fees for delinquent installments.

Section 10. Lien for Assessments. The Association may file a lien against a Lot when any Assessment levied against said Lot remains unpaid for a period of thirty (30) days or longer.

A. The lien shall constitute a lien against the Lot when and after the claim of lien is filed of record in the office of the Clerk of the Circuit Court of the county in which said Lot is located. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under the Act. Fees, charges, late charges, fines, interest, and other charges imposed or allowed pursuant to the Act, are enforceable as Assessments.

B. The lien under this section shall be prior to all liens and encumbrances on a Lot except (1) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Lot) recorded before the docketing of the claim of lien in the office of the Clerk of the Circuit Court, and (2) liens for real estate taxes and other governmental assessments and charges against the Lot.

C. The lien for unpaid Assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the docketing of the claim of lien in the office of the Clerk of Circuit Court.

D. Any judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the Association.

E. Where the holder of a first mortgage or deed of trust of record, or other purchaser of a Lot obtains title to the Lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns shall not be liable for the Assessments against the Lot which became due prior to the acquisition of title to the Lot by such purchaser. The unpaid Assessments shall be deemed to be Common Expenses collectible from all of the Lot Owners including such purchaser, its heirs, successors, and assigns.

F. A claim of lien shall set forth the name and address of the Association, the name of the record Owner of the Lot at the time the claim of lien is filed, a description of the Lot, and the amount of the lien claimed.

## **ARTICLE XI**

### **Easements**

A. The Declarant reserves for itself, its successors, assigns, and the Association, easements over the Property as necessary to enable the Association to fulfill its maintenance responsibilities under this Declaration.

B. The Declarant reserves for itself, its successors, assigns, and the Association, a five (5) foot non-municipal easement for utilities and drainage along and inside the side lines of all Lots for the purpose of installing, inspecting, and repairing any drain ways, swales, ditches or gutters for surface water. No structures or plantings or other materials shall be placed or permitted to remain upon such easement areas which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct, or reverse the flow of water or which may damage or interfere with the established slope ratios or create erosion problems.

C. The Declarant and the Association shall also have the right, but not the obligation, to enter upon any Lot for emergency, security, or safety reasons, to perform maintenance, to inspect the Lot to ensure compliance with these protective covenants, and to enforce these protective covenants. The Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

D. All easements and rights described herein are perpetual easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the Declarant and the Association, their successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the Property, or any part or portion thereof, regardless of whether or not reference is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

## **ARTICLE XII**

### **Rights of Declarant**

The Declarant shall have, and there is hereby reserved to the Declarant, the following rights, powers, and privileges which shall be in addition to any other rights, powers, and privileges reserved to the Declarant herein (but exercise of the rights reserved by or granted to the Declarant in this Article is subject to any approvals required to be given pursuant to the Amended Master Declaration, the Master Association's Board of Directors, or others, pursuant to the terms of the Master Declaration or any other document requiring such approval):

A. To conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Villas or to qualify the Villas or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of the United States Government or the State of Virginia, regarding purchase or sale of such Lots and improvements, mortgage interests therein, as well as any other law or regulation relating to the control of property, including, without limitation, ecological controls, storm-water regulations, construction standards, aesthetics, and matters affecting the public health, safety, and general welfare. Notwithstanding anything else herein to the contrary, only the Declarant, during the Declarant Control Period, shall be entitled to amend this Declaration pursuant to this Section. Declarant may at any time alter the maximum allowable built-upon area for any Lot at any time before the Lot is conveyed by the Declarant.

B. To comply with the terms of the Fairways Declaration and the Amended Master Declaration.

C. Subject to the terms and conditions of the Amended Master Declaration, Declarant may annex to and make a part of the Villas any other real property, whether now owned or hereafter acquired by Declarant or others, and whether developed by the Declarant or others (the "Additional Property") without the assent of the Owners. Declarant is not required to annex any additional land to the Villas.

D. Subject to the terms and conditions of the Amended Master Declaration, and so long as it has a right to annex additional property, Declarant may withdraw and remove property then owned by the Declarant, its affiliates, or the Association from the coverage of these protective covenants, to the extent originally included in error or as a result of any changes in the Declarant's plans for the Property, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Property.

E. This Declaration may be amended unilaterally, without the approval of any Owner, by the Declarant as follows:

I. In any respect provided Declarant retains ownership of any Lot, provided the amendment does not materially alter or change any Owner's right to the use and enjoyment of such Owner's Lot, and does not adversely affect the title to any Lot.

II. To the extent this Declaration applies to Additional Property, including, but not limited to, amendments to add additional classes of Membership to the Association, to add or alter Lawn Maintenance and Landscape Elements or Limited Common Elements, and to establish minimum square footage and other standards for structures.

III. To correct any obvious error or inconsistency in drafting, typing, or reproduction.

IV. To qualify the Association or the Property and Additional Property, or any portion thereof, for tax-exempt status.

V. To incorporate or reflect any platting change as permitted by this Article or as otherwise permitted herein.

F. So long as the Declarant or its designee shall retain ownership of any Lot, it may utilize any such Lot for offices, models, or other purposes relating to the development, construction, sale or rental of Lots and dwellings located within the Property. Additionally, in connection with any of the above activities, the Declarant and its agents shall have the right to park vehicles and to display commercial materials (including, without limitation, signs, advertisements, or other promotional materials) on any street or within the right of way thereof. The Declarant may assign this limited commercial usage right to any other person or entities as it may choose.

**ARTICLE XIII**  
**Lots Subject to Declaration**

The covenants and restrictions contained in this Declaration are for the purpose of protecting the value and desirability of the Villas and the Lots. All present and future owners, tenants and occupants of the Lots, and their guests or invitees, shall be subject to and shall comply with the provisions of this Declaration, the Fairways Declaration, and the Amended Master Declaration as they may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Lot shall constitute an agreement that the provisions of such declarations are accepted and ratified by such Owner, tenant, or occupant. The covenants and restrictions of this Declaration shall run with and bind the land and shall bind any person having at any time any interest or estate in any Lot, their heirs, successors, and assigns, as though such provisions were made a part of each and every deed of conveyance or lease, for the maximum period of time allowable by law following the date this Declaration is recorded, unless an instrument signed by eighty (80%) of the then Lot Owners has been recorded within the year preceding any extension, agreeing to terminate this Declaration, in which case it shall terminate as of the date specified in such instrument. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

**ARTICLE XIV**  
**Enforcement and Remedies**

Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, and the aggrieved party, whether it be a Lot Owner, the Declarant, the Association, or the Master Association, may request restraint of the violation or damages resulting from said violation.

The covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable (by proceedings at law or in equity) by the Declarant, the Association, or the Owner of any Lot, their respective legal representatives, heirs, successors, and assigns. In addition, the covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable (by proceedings at law or in equity) by the Amended Master Association, its respective legal representatives, successors, and assigns, as further provided in the Amended Master Declaration as the same may be amended from time to time. The Board shall be entitled to enforce its Articles of Incorporation, Bylaws, and Rules and Regulations. In addition to the remedies otherwise provided for herein concerning the collection of Assessments, the following remedies shall be available:

A. Association to Remedy Violation. In the event an Owner (or other occupant of a Lot) is in violation of or fails to perform any maintenance or other activities required by the Amended Master Declaration, the Fairways Declaration, this Declaration, the Association's Bylaws, Articles of Incorporation, or Rules and Regulations, the Board, after providing notice, may enter upon the Lot and remedy the violation or perform the required maintenance or other activities, all at the expense of the Owner. Provided, however, that the Board shall not be required to provide notice in the event of an emergency in accordance with Article XI of this Declaration. The full amount of the cost of remedying the violation or performing such maintenance or other

activities shall be chargeable to the Lot, including collection costs and reasonable attorneys' fees. Such amounts shall be due and payable within thirty (30) days after Owner is billed. If not paid within said thirty (30) day period, the amount thereof may immediately be added to and become a part of the Base Assessment levied against said Owner's Lot. In the event that any maintenance activities are necessitated to any Common or Limited Common Elements by the willful act or active or passive negligence of any Owner or an Owner's family, guests, invitees, or tenants, and the cost of such maintenance, repair, or other activity is not fully covered by insurance, then, at the sole discretion of the Board of Directors, the cost of the same shall be the personal obligation of the Owner, and if not paid to the Association upon demand, may immediately be added to and become a part of the Base Assessment levied against said Owner's Lot.

B. Fines. The Association may, in accordance with the procedures set forth in the Act, establish a schedule of and collect fines for the violation of this Declaration or of the Association's Articles of Incorporation, Bylaws, or Rules and Regulations. If an Owner does not pay the fine when due, the fine shall immediately become a part of and be added to the Base Assessment against the Owner's Lot and may be enforced by the Association as all other Assessments provided for herein.

C. Suspension of Services and Privileges. The Association may, in accordance with the procedures set forth in the Act, suspend all services and privileges provided by the Association to an Owner (other than rights of access to Lots) for any period during which any Assessments against the Owner's Lot remain unpaid for at least thirty (30) days or for any period that the Owner or the Owner's Lot is otherwise in violation of the Amended Master Declaration, the Fairways Declaration, this Declaration, or the Association's Articles of Incorporation, Bylaws, or Rules or Regulations.

D. Miscellaneous. Failure by the Association or by an Owner to enforce any covenant or restriction in this Declaration, as the same may be amended from time to time, shall in no event be deemed a waiver of the right to do so thereafter. The remedies provided herein are cumulative and are in addition to any other remedies provided by law.

## **ARTICLE XV Amendments**

Except in cases of amendments that may be executed by the Declarant or the Board, this Declaration may be amended by affirmative vote or written agreement signed by Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated, or by the Declarant if necessary for the exercise of any Special Declarant Right or development or other right reserved to the Declarant herein.

## **ARTICLE XVI Other Declarations**

The Property and all Lots located in the Property are part of the Bay Creek at Cape Charles planned community and are subject to and bound by the Amended Master Declaration, the Fairways Declaration, this Declaration, and all amendments thereto, INCLUDING THE OBLIGATIONS TO (1) PAY ALL MASTER ASSOCIATION ASSESSMENTS WHICH ARE

IN ADDITION TO THE ASSESSMENTS PROVIDED FOR IN THIS DECLARATION; (2) ABIDE BY THE ARCHITECTURAL REVIEW AND LAND RESTRICTIONS THEREUNDER, INCLUDING BUT NOT LIMITED TO THE PROVISIONS OF THE RESIDENTIAL DESIGN STANDARDS THE VILLAS, AND (3) COMPLY WITH THE TERMS OF ALL ADDITIONAL MASTER GOVERNING DOCUMENTS.

**ARTICLE XVII**  
**Severability**

Invalidation of any of these covenants and restrictions, or any part thereof by judgment or court order, shall in no way affect any of the other provisions set forth herein, which shall remain in full force and effect, and the failure of any person or entity to take action to enforce these covenants shall not be construed as a waiver of any future enforcement rights.

**ARTICLE XVIII**  
**Virginia Property Owners' Association Act**

It is the intent of the Declarant to comply with the requirements imposed on the Property by the Virginia Property Owners' Association Act (the "Act") and to the extent any of the terms of this Declaration violate the Act, the terms of the Act shall control.

**WITNESS** the following signatures and seal as of the date first written above;

**BAY CREEK DEVELOPMENT, LLC**

BY: \_\_\_\_\_

STATE OF VIRGINIA  
COUNTY OF NORTHAMPTON to-wit:

The foregoing Declaration of Covenants and Restrictions was acknowledged before the undersigned Notary Public this \_\_\_\_ day of August, 2020, by \_\_\_\_\_ as \_\_\_\_\_ of Bay Creek Development, LLC, a Virginia limited liability company.

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

My Commission expires: \_\_\_\_\_  
Registration Number: \_\_\_\_\_

**BYLAWS**  
**OF**  
**PALMER LAKE VILLAS PROPERTY OWNERS ASSOCIATION, INC.**

**ARTICLE I**  
**NAME AND LOCATION**

The name of the Corporation is PALMER LAKE VILLAS PROPERTY OWNERS ASSOCIATION, INC., a Virginia nonstock corporation, hereinafter referred to as the "Association." The principal office of the Association shall be initially located at 11675 Rainwater Drive, Suite 220, Alpharetta, Georgia, 30009, but a meeting of members and directors may be held at such places within the State of Virginia, County of Northampton, as may be designated by the Board of Directors.

**ARTICLE II**  
**DEFINITIONS**

Section 1. "Association" shall mean and refer to PALMER LAKE VILLAS PROPERTY OWNERS ASSOCIATION, INC., its successors and assigns.

Section 2. "Property" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions, and Restrictions for Palmer Lake Villas, as recorded or to be recorded in connection therewith (the "Declaration").

Section 3. "Common Areas" shall have the meaning given to that term in the Declaration.

Section 4. "Limited Common Areas" shall have the meaning given to that term in the Declaration

Section 5. "Unit" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Property with the exception of common areas, limited common areas, and dedicated roadways.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Unit which is a part of the Property, but excluding those having such interest as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to Bay Creek Development, LLC, a Virginia limited liability company, its successors and assigns.

Section 8. "Declaration" shall mean and refer to any Declaration of Covenants, Conditions, and Restrictions for Palmer Lake Villas, applicable to the properties recorded or to be recorded at the office of the Clerk of the Circuit Court of Northampton County, Virginia.

Section 9. "Member" shall mean and refer to those persons or entities entitled to membership with voting rights as provided in the Declaration and in these Bylaws.

Section 10. "Board of Directors" or "Board" shall mean and refer to the board governing the Association and managing the affairs of the Association.

Section 11. "Declarant Control Period" shall mean and refer to the period of time during which the Declarant is entitled to appoint the members of the Board of Directors as provided in the Declaration.

Section 12. "Person" shall mean and refer to a natural person, a corporation, a partnership or limited partnership, a limited liability company or partnership, a trustee, association, or any other legal entity.

Section 13. "Virginia Property Owners Association Act" or "the Act" shall mean and refer to the Virginia Property Owners Act as set forth in Section 55.1-1800, et seq. of the Code of Virginia, 1950, as the same may be amended from time to time.

### **ARTICLE III MEMBERSHIP AND PROPERTY RIGHTS**

Section 1. Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of that membership. The membership rights of an Owner which is a corporation, partnership or other legal entity may be exercised by any officer, director, partner, or trustee, or by any other individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association, provided that only one person (and such person's immediate family members with respect to membership rights other than voting) may be designated to act in such capacity for such an Owner at any particular time. The Association shall have two classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration.

The provisions of the Declaration pertaining to membership are incorporated herein by reference.

Section 2. Property Rights. Each Member shall be entitled to the use and enjoyment of the Common Areas and Limited Common Areas as provided in the Declaration.

### **ARTICLE IV MEETING OF MEMBERS**

Section 1. Annual Meetings. The first annual meeting of the Members shall be held on \_\_\_\_\_ 2020, and each subsequent regular annual meeting of the Members shall be held on a date which is not a Sunday or a national holiday, during the month of April annually at a reasonable hour.

Section 2. Special Meetings. Special Meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of one-fourth (1/4) of the Members.

Section 3. Notice of Meeting. Written notice of each meeting of the Members shall be given by, or at the direction of the Secretary, or such other person authorized to call the meeting, by mailing, or emailing, a copy of each notice, at least 10 days before, but no more than 60 days before, such meeting to each Member entitled to vote, addressed to the Member's address last appearing on

the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting. Waiver by a Member in writing of the notice required herein, signed by him before or after such meeting, shall be equivalent to the giving of proper notice.

Section 4. Quorum. At any meeting of the members, fifty-one percent (51%) of the members entitled to vote, present in person or represented by proxy, shall constitute a quorum of the membership for all purposes. If a quorum is not present, the meeting may be recessed from time-to-time by announcement from the Chair at the time such meeting was set and such shall be sufficient notice of the date, time and place of the recessed meeting. At such recessed meeting the quorum requirements shall be twenty-six percent (26%) of the members entitled to vote, present in person by proxy. The members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Each proxy shall be revocable and shall automatically cease upon conveyance by the Member of his or her unit.

**ARTICLE V**  
**BOARD OF DIRECTORS, SELECTION, TERM OF OFFICE**

Section 1. Number. The number of Directors constituting the initial Board of Directors shall be two, and the names and addresses of the persons who are to serve as Directors until their successors are elected and qualify, are:

\_\_\_\_\_

\_\_\_\_\_

At the first annual meeting after the Declarant Control Period has expired, the minimum number of Directors shall be five. The members of the Board of Directors need not be Members of the Association.

Section 2. Term of Office. Until the first annual meeting after the Declarant Control Period has expired, the Directors shall be elected annually. However, any Directors named above shall continue to serve beyond their respective one-year term unless and until they resign or their successor is elected and qualified. At the first annual meeting after the Declarant Control Period has expired, the Members shall elect two Directors for a term of three years, two Directors for a term of two years, and one Director for a term of one year or until the respective successors are properly chosen. Thereafter these terms shall continue in effect to provide for staggered terms.

Section 3. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a Director, his successor shall be elected by the remaining members of the Board, and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Association as a Director. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

## **ARTICLE VI NOMINATION AND ELECTION OF DIRECTORS**

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations for election to the Board may also be made from the floor at the annual Members' meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

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

## **ARTICLE VII MEETINGS OF DIRECTORS**

Section 1. Regular Meeting. Regular meetings of the Board of Directors shall be held quarterly, or at such other periodic intervals as may be established by the Board of Directors from time to time, without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meeting. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days written notice to each Director, by mail or email.

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

**ARTICLE VIII**  
**POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

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

(a) adopt and publish rules and regulations governing the use of the Common Areas, the Limited Common Areas, and the personal conduct of the Members, and their guests thereon;

(b) suspend the voting rights and any other rights of a Member during any period in which such Member is in default in the payment of any assessment, dues or charge levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(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;

(f) employ attorneys to represent the Association when deemed necessary;

(g) take such actions as are necessary or convenient to perform the duties as set forth below;  
and

(h) do such other things authorized by the Act and do such other things which organizations of this nature are authorized to do.

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

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

(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 annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any Unit for which assessments are not paid within thirty (30) days after due date or bring an action at law against the Owner personally obligated to pay the same;

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been

paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain liability insurance covering the Association, its directors, officers, agents and employees and to procure and maintain adequate hazard insurance on any real and personal property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Limited Common Areas and Common Areas to be maintained; and

(h) enforce the Declaration, these By-Laws, and the Rules and Regulations by imposing upon the Members those sanctions more fully described in the Protective Covenants as well as any and all sanctions permissible under the Act.

## **ARTICLE IX OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Officers. The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the offices except the offices of Secretary and Treasurer and the special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board of Directors; shall see that order and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments; and shall co-sign all checks and promissory notes.

(b) Vice-President. The Vice-President shall act in the place and stead of the President in the event of his absence, disability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of all of the Members; shall keep the corporate seal of the Association and affix it on all papers requiring said seal; shall serve notice of meetings to the Board and the Association together with their addresses; and shall perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall authorize payment of books of account; and shall prepare an annual budget and a statement of income expenditures to be presented to the membership at its annual meeting and deliver a copy of each to the Members.

## **ARTICLE X COMMITTEES**

The Board of Directors shall appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint any other committees it deems necessary and appropriate in carrying out its purpose.

## **ARTICLE XI BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws shall be maintained at the office of the Association, where copies may be purchased at reasonable cost.

## **ARTICLE XII ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association certain assessments which are secured by a continuing lien upon the property against which each assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at a rate not to exceed the maximum legal rate allowed in the Commonwealth of Virginia per annum, the Association may impose a late fee in such an amount to be determined by the Board, and the Association may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property and interest costs and all attorney's fees of any such action shall be added to the amount of the assessments. No Member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his unit.

**ARTICLE XIII  
CORPORATE SEAL**

The Association may, but is not required to, have a corporate seal. If the Association adopts a corporate seal, the seal of the corporation shall be in circular form having within its circumference shall be written or inscribed the words: PALMER LAKE VILLAS PROPERTY OWNERS ASSOCIATION, INC., a Virginia nonstock corporation.

**ARTICLE XIV  
GENERAL AND MISCELLANEOUS PROVISIONS**

Section 1. These Bylaws may be amended, at any time by the Declarant prior to the expiration of the Declarant Control Period; and thereafter, at regular or special meeting of the Members, by a vote of three-fourths (3/4) of all Members.

Section 2. 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.

Section 3. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

**CERTIFICATION**

I, the undersigned, do hereby certify: That I am duly elected and acting Secretary of Palmer Lake Villas Property Owners Association, Inc., a Virginia nonstock corporation; and

That the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at the initial meeting of the Board of Directors thereof, held on the \_\_\_\_ day of August, 2020.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this \_\_\_\_ day of August, 2020.

(Corporate Seal)

\_\_\_\_\_  
Secretary

ARTICLES OF INCORPORATION  
OF  
PALMER LAKE VILLAS PROPERTY OWNERS ASSOCIATION, INC.  
A NON-PROFIT CORPORATION

In compliance with the requirements of the Virginia Nonstock Corporation Act (the “Act”) as set forth in of Sections 13.1-801 et seq. of the Code of Virginia, 1950, as amended, the undersigned, an attorney licensed to practice law in the commonwealth of Virginia, does hereby make and acknowledge these Articles of Incorporation for the purpose of forming a corporation not for profit and does hereby certify:

ARTICLE I

1.1 Corporate Name: The name of the Corporation is PALMER LAKE VILLAS PROPERTY OWNERS ASSOCIATION, INC., hereinafter called the Corporation or the Association.

ARTICLE II

2.1 Duration: The period of duration of the Corporation shall be perpetual.

ARTICLE III

3.1 Registered Office and Agent: The street address and mailing address of the initial registered office of the Corporation is located at 7288 Hanover Green Drive, Mechanicsville, Virginia, 23111-0000, and the name of the initial registered agent of the Corporation at such address is Incorp Services, Inc., a business entity that is authorized to transact business in Virginia.

ARTICLE IV

4.1 Principal Office: The street address and mailing address of the principal business office of the Corporation is located at 7288 Hanover Green Drive, Mechanicsville, Virginia, 23111-0000.

ARTICLE V

5.1 Corporate Purpose: This Corporation does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed is to provide for the maintenance, management, and preservation of that certain neighborhood located within Bay Creek at Cape Charles, known as PALMER LAKE VILLAS, (the “Community”) as shown and described on the plats thereof recorded or to be recorded in the Office of the Clerk of the Circuit Court of Northampton, Virginia, and any additions thereto which may be brought within the jurisdiction of the Corporation; and to promote the health, safety and welfare of the Owners, and for these purposes the Corporation and the Executive Board shall have the following powers:

(A) To exercise all of the powers and privileges and to perform all of the duties and

obligations of the Corporation set forth in that certain Declaration of Restrictive Covenants for PALMER LAKE VILLAS, ("the Declaration") which has been or will be recorded in the Office of the Clerk of the Circuit Court of Northampton County, Virginia, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length (all capitalized terms herein shall have the same meaning defined in the Declaration);

(B) Adopt and amend bylaws and rules and regulations;

(C) Adopt and amend budgets for revenues, expenditures, and reserves and collect Assessments for common expenses from Owners;

(D) Hire and discharge managing agents and other employees, agents, and independent contractors;

(E) Institute, defend, or intervene in litigation or administrative proceedings on matters affecting the Community;

(F) Make contracts and incur liabilities;

(G) Regulate the use, maintenance, repair, replacement, and modification of Common Areas;

(H) Cause additional improvements to be made as a part of the Common Areas and Limited Common Areas;

(I) Acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal property, provided that Common Areas and Limited Common Areas may be conveyed or subjected to a security interest only pursuant to the Act;

(J) Grant easements, leases, licenses, and concessions through or over the Common Areas;

(K) Impose and receive any payments, fees or charges for the use, rental or operation of the Common Areas other than any Limited Common Areas and for services provided to Owners;

(L) Impose reasonable charges for late payment of Assessments and, after notice and an opportunity to be heard, suspend privileges or services provided by the Association (except rights of access to Units) during any period that Assessments or other amounts due and owing to the Association remain unpaid for a period of 30 days or longer;

(M) Impose attorney's and expert's fees and expenses incurred in the enforcement of the provisions of the Declaration of Covenants, these Articles, the Bylaws of the Association, and any Rules and Regulations promulgated pursuant to the Declaration of Covenants;

(N) After notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the Association (except rights of access to Units) for reasonable periods for violations of the Declaration, bylaws, and rules and regulations of the Association;

(O) Impose reasonable charges in connection with the preparation and recordation of documents, including, without limitation, amendments to the Declaration or statements of unpaid Assessments;

(P) Provide for the indemnification of and maintain liability insurance for its officers, Executive Board, directors, employees and agents;

(Q) Assign its right to future income, including the right to receive Assessments;

(R) Exercise all other powers set forth in the Virginia Non-Profit Corporation Act, and other powers that may be exercised in the Commonwealth of Virginia by legal entities of the same type as the Association; and

(S) Exercise any other powers necessary and proper for the governance and operation of the Association.

## ARTICLE VI

6.1. Membership: Every person who is a record Owner of a fee or undivided fee interest in any Lot or Unit, including contract sellers, shall be a member of the Corporation. The foregoing is not intended to include Persons who hold an interest 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.

6.2. Classes of Membership: The Association shall have two classes of membership as defined in the Bylaws, as they may be amended from time to time. The Declarant will, under the membership structure set forth in the Bylaws and the Declaration, maintain control of the Association during the Declarant Control Period.

## ARTICLE VII

7.1. Incorporator: The name and address of the incorporator of this Corporation is Douglas E. Kahle, Esq, an attorney licensed to practice law in the Commonwealth of Virginia, whose address is 308 Cedar Lakes Drive, 2<sup>nd</sup> Floor, Chesapeake, Virginia 23322.

## ARTICLE VIII

8.1. Dissolution of the Association: In the event of dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association may be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created or such assets may be granted, conveyed and assigned to one or more nonprofit corporations, associations, trusts or organizations to be devoted to such similar purpose or after all of its liabilities and obligation have been discharged or adequate provisions made therefore, or be distributed as provided for by the Virginia Non-Profit Corporation Act, or may be distributed as provided by the Virginia Property Owners Association Act. Dissolution shall conform to the terms and conditions of the Virginia Property Owners Association Act.

## ARTICLE IX

9.1. Tax Status: Notwithstanding any other provision of these Articles, this Association hereby elects tax-exempt status under Section 528 of the Internal Revenue Code of 1986 or any corresponding sections or provisions of any future United States Internal Revenue Law (the "Code"). This Association shall not carry on any activities prohibited by a corporation electing tax-exempt status under Sections 528. It is further provided that no distributions of income of the Association are to be made to Members, directors or officers of the Association, except that members of the Association may receive a rebate of any excess dues and assessments previously paid to the extent permitted by the Code and applicable law.

## ARTICLE X

10.1 Indemnity: To the fullest extent allowed by law, every Director and every Officer of the Corporation shall be indemnified by the Corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or Officer of the Corporation, whether or not he is a Director or Officer at the time such expenses are incurred, except in such cases wherein the Director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or Officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interest of the Corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

## ARTICLE XI

11.1 Immunity: A person serving as a director or officer of the Association shall be subject to civil liability, and immune from such liability, as set forth in Virginia Code Sections 13.1-870, 13.1-870.1.C and 13.1-870.2.C.

IN WITNESS WHEREOF, for the purpose of forming this Corporation under the laws of the Commonwealth of Virginia, I, the undersigned, the incorporator of this Corporation, have executed these Articles of Incorporation this the \_\_\_ day of August, 2020.

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Douglas E. Kahle, Esq., Incorporator