

# APPENDIX E

Declarations of Covenants, Easements and  
Restrictions for Lake Shore on Lake Wylie

**DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS**

**FOR**

**LAKE SHORE ON LAKE WYLIE**  
a/k/a Lake Shore at Tega Cay

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DECLARATION OF COVENANTS, EASEMENTS, AND RESTRICTIONS

FOR

LAKE SHORE ON LAKE WYLIE  
a/k/a Lake Shore at Tega Cay

THIS DECLARATION OF COVENANTS, EASEMENTS, AND RESTRICTIONS is made this 6th day of October, 2000, by NNP-TEGA CAY, LLC, a Delaware limited liability company ("Declarant").

Declarant is the owner of the real property described in the attached Exhibit "A" and other property in the vicinity thereof which Declarant intends to develop for residential, recreational, and other purposes. In order to protect and enhance the desirability of such property, Declarant hereby imposes upon the Properties, as defined below, mutually beneficial covenants and restrictions under a general plan of improvement for the benefit of the Declarant and the owners of each portion of the Properties.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property hereafter made subject to this Declaration pursuant to the rights reserved in Article II (collectively, the "Properties") shall be held, sold, used, and conveyed subject to the provisions of this Declaration, which shall run with the title to the Properties and shall be binding upon all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns. This Declaration shall inure to the benefit of Declarant and each owner of any portion of the Properties.

**Article I      DEFINITIONS**

The terms used in this Declaration and the attached exhibits shall generally be given their natural, commonly accepted definitions except as otherwise specified in this Declaration. Capitalized terms shall be defined as set forth below.

"City": The City of Tega Cay, South Carolina.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties, or the minimum standards established pursuant to the Design Guidelines, whichever is the highest standard. Declarant may establish such standard initially, although it may evolve as development progresses and as the needs and desires within the Properties change.

"Declaration": This Declaration of Covenants, Easements and Restrictions, as it may be amended and supplemented from time to time.

"Declarant": NNP-TEGA CAY, LLC, a Delaware limited liability company, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibit "A" or "B" for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided, there shall be only one Declarant at any time.

"Design Guidelines": The architectural, design and construction guidelines and review procedures adopted pursuant to Article V, as they may be amended.

"Governing Documents": A collective term referring to this Declaration, any applicable Supplemental Declaration, and the Design Guidelines, as they may be amended.

"Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

"Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

"Properties": The real property described on Exhibit "A," together with such additional property as is made subject to this Declaration pursuant to Article II.

"Public Records": The Office of Mesne Conveyances for York County, South Carolina, or such other place as may hereafter be designated as the official location for recording deeds, plats and similar documents affecting title to real estate.

"Supplemental Declaration": An instrument filed in the Public Records pursuant to Article II which subjects additional real property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the property described in such instrument.

"Streetscape Improvements": The trees, landscaping, and sidewalk, if any, lying within the buffer area of varying widths that abuts the curb on each side of all streets within the Properties, generally lying within the right-of-way of such streets as shown on the recorded subdivision plats of the Properties.

"Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as a residence for a single family. The term shall include within its meaning, by way of illustration but not limitation, each numbered lot shown on a subdivision plat filed in the Public Records with respect to any portion of the Properties, together with the structures, if any, constructed thereon, as well as vacant land intended for further subdivision, but shall not include property dedicated to the public.

## Article II RIGHTS OF DECLARANT

### 2.1. Right to Enforce.

So long as Declarant owns any of the property described in Exhibit "A" or "B," Declarant may, but shall have no obligation to, enforce the provisions of the Governing Documents. Except in case of an emergency, Declarant shall provide written notice to the Owner responsible for the violation that sets forth the nature of the violation, the action to be taken to cure the violation, and a reasonable period of time to cure the violation ("Notice of Violation"). If such Owner fails to cure the violation within the time period set forth in the Notice of Violation, Declarant shall have the right, but not the obligation, to:

(a) enter upon the Unit and take corrective action to remove, abate or cure any condition in violation of the Governing Documents (including, without limitation, performing any necessary maintenance or repairs and removing any structures or items placed on the Unit in violation of Article V or Article VI, and any such action shall not be deemed a trespass; or

(b) deny the Owner, the occupants of his or her Unit, or any other alleged violator access to any property or facilities which Declarant owns, notwithstanding that they may be dedicated or intended for public use;

(c) impose monetary fines in the amount of \$25.00 per violation or per day in the case of a continuing violation of the Governing Documents, which fines shall constitute the personal obligation of the responsible Owner and shall be secured by a lien on such Owner's Unit in favor of Declarant; and

(d) exercise any other rights or remedies specifically provided in the Governing Documents or otherwise available at law or in equity.

The Declarant shall be entitled to recover from the violating Owner all costs reasonably incurred in taking corrective action or seeking to enforce compliance, whether or not suit is filed, including, without limitation, reasonable fees of attorneys and paralegals actually incurred and court costs (collectively, "Costs"). Each Owner, by purchasing a Unit within the Properties, covenants and agrees that Declarant shall have a lien against such Owner's Unit in the amount of any such Costs incurred by Declarant in connection with any violation occurring on such Owner's Unit and any monetary fines levied pursuant to subsection (c) above, until paid in full. Such lien may be evidenced by recording in the Public Records a written notice of lien. Declarant may enforce such lien by suit, judgment, and foreclosure in the same manner as mortgages on real property are foreclosed under South Carolina law, or may sue on the personal obligation to pay such Costs and monetary fines without foreclosing such lien. Declarant shall contribute any monetary fines that it collects to one or more nonprofit, tax exempt community organizations serving the area in which the Properties are located (such as, but not limited to, local parent-teacher associations, youth organizations, or schools), or the City of Tega Cay, the recipient to be determined in Declarant's discretion, to be used for purposes of recreational, art, cultural, or

educational programs, equipment, or activities; enhancement of parks, trails, or other recreational facilities; or civic activities, as Declarant may specify.

The fact that Declarant has not taken steps to enforce any provision of the Governing Documents in a particular case shall not be construed as a waiver of Declarant's right to enforce such provision at a later time or under other circumstances nor shall it preclude Declarant from enforcing any other provision of the Governing Documents.

2.2. Governmental Interests.

So long as Declarant owns any property described on Exhibit "A" or "B," the Declarant may designate sites within the Properties for fire, police, utility facilities, public schools, parks, and other public or quasi-public facilities. The sites may include property not owned by Declarant provided the owner of such property consents.

2.3. Dedication of Portions of the Properties.

So long as Declarant owns any property described on Exhibit "A" or "B," Declarant may dedicate portions of the Properties which it owns to the City, or to any other local, state, or federal governmental or quasi-governmental entity.

2.4. Addition of Other Property.

Declarant may from time to time, but shall not be obligated to, submit to the terms of this Declaration all or any portion of the real property described in Exhibit "B" and/or such other property as Declarant may hereafter acquire in the vicinity of the Properties, by filing a Supplemental Declaration in the Public Records describing the additional property. Such Supplemental Declaration shall not require the consent of Owners, but shall require the consent of the owner of the additional property, if other than Declarant. Declarant may transfer or assign this right to other Persons, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant.

Nothing in this Declaration shall be construed to require the Declarant or any successor to submit any of the property described in Exhibit "B" to this Declaration or to develop it in any particular manner.

2.5. Withdrawal of Property.

The Declarant reserves the right to amend this Declaration, so long as it has a right to submit additional property to the terms of this Declaration pursuant to Section 2.4, for the purpose of removing any portion of the Properties from the coverage of this Declaration; provided, no Unit shall be withdrawn from the coverage of this Declaration if surrounded by Units which remain subject to this Declaration. Such an amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant.



2.6. Additional Covenants and Easements.

The Declarant may subject any portion of the Properties to additional covenants and easements by filing a Supplemental Declaration in the Public Records, concurrent with or after the annexation of the subject property, setting forth such additional covenants and easements. Any such Supplemental Declaration shall require the written consent of the owner(s) of the subject property, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

2.7. Development and Marketing Activities.

Declarant may maintain and carry on upon portions of the Properties which it owns such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Units, including but not limited to, business offices, signs, model homes, and sales offices.

Article III MAINTENANCE

3.1 Declarant's Obligation to Maintain Streets.

Until such time as the streets within the Properties are dedicated to and accepted by the City, Declarant shall be responsible for the maintenance of such streets.

3.2 Owner's Maintenance Obligations.

Each Owner shall maintain his or her Unit and all sidewalks, structures, driveways, parking areas, and other improvements on or comprising the Unit in a neat, clean and attractive condition, in good order and repair, and in a manner consistent with the Community-Wide Standard and the Governing Documents. Each Owner shall also maintain all landscaping on the Unit, including any trees planted on the Unit, in a neat and attractive, healthy, growing condition. "Maintenance," as such term is used in this Article, shall include repair and replacement of structures and improvements and the removal and replacement of landscaping as necessary to maintain the Unit in a manner consistent with the Community-Wide Standard.

If any tree planted on a Unit dies within five years following the issuance of a certificate of occupancy for the dwelling on a Unit, the Owner of such Unit shall promptly remove the dead tree and replace it with a tree of comparable size and of a species compatible with the recommended replacement tree palette used by the City.

If any Unit is subject to the jurisdiction of a condominium or homeowners association and the governing documents of such association so provide, the Owner shall be relieved of its maintenance responsibilities hereunder to the extent that they are assumed and performed by such association. This Section shall apply to any condominium or homeowners association

responsible for common property subject to its jurisdiction in the same manner as if the association were an Owner and the common property were a Unit.

If any Owner fails properly to perform his or her maintenance responsibilities hereunder, Declarant may, but shall not be obligated to, enter upon such Owner's Unit and perform such maintenance responsibilities and recover all costs incurred by the Declarant from the Owner of such Unit. Declarant shall afford the Owner reasonable notice of the problem and an opportunity to cure it prior to Declarant's entry, unless immediate entry is required due to an emergency situation posing an imminent threat of injury or property damage. Such remedy shall not be exclusive of other remedies available to Declarant and others to enforce this Declaration.

#### Article IV OWNER'S OBLIGATION TO INSURE AND RESTORE

By virtue of taking title to a Unit, each Owner covenants and agrees with Declarant and with all other Owners to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible. Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article V. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

If any Unit is subject to the jurisdiction of a condominium or homeowners association and the governing documents of such association so provide, the Owner shall be relieved of its responsibilities hereunder to the extent that they are assumed and performed by such association. This Section shall apply to any condominium or homeowners association responsible for common property subject to its jurisdiction in the same manner as if the association were an Owner and the common property were a Unit.

In the event an Owner or association fails to commence or complete such repair and reconstruction within a reasonable period of time, Declarant may, after reasonable notice to such Owner or association, enter upon the affected property and clear and remove all debris and ruins and/or perform any necessary repair or reconstruction. Declarant shall have the right to recover from the Unit Owner all costs which it reasonably incurs in taking such corrective action.

#### Article V ARCHITECTURAL STANDARDS

##### 5.1. General.

No structure shall be placed, erected, or installed upon any Unit, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) shall take place except

in compliance with this Article and the Design Guidelines promulgated pursuant to Section 5.3. All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect unless otherwise approved by the Declarant.

The following shall not require prior approval so long as they comply with all applicable laws, ordinances and regulations and any Design Guidelines addressing such items:

- (a) remodeling or redecorating the interior of structures on a Unit, except that modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval;
- (b) repainting the exterior of a structure in accordance with the originally approved color scheme or rebuilding in accordance with originally approved plans and specifications;
- (c) basketball hoops placed and maintained behind the front setback line on the Unit;
- (d) swingsets and similar sports and play equipment placed and maintained in the rear yard of the Unit; and
- (e) the following devices erected in compliance with such requirements, if any, as to location and screening as may be set forth in the Design Guidelines and permitted by applicable law to minimize obtrusiveness as viewed from streets and adjacent Units and Common Area:
  - (i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter;
  - (ii) an antenna designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or
  - (iii) an antenna that is designed to receive television broadcast signals;

This Article shall not apply to the activities of the Declarant.

## 5.2. Architectural Review.

- (a) By Declarant. So long as Declarant owns any portion of the property described in Exhibit "A" and "B," the Declarant shall have the exclusive right to exercise architectural review under this Article unless earlier terminated in a written instrument executed by Declarant and recorded in the Public Records.

Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Properties, acknowledges that, as the developer of the Properties and as an Owner of portions of the Properties, Declarant has a substantial interest in ensuring that the

improvements within the Properties preserve its reputation and do not impair the Declarant's ability to market its property. Therefore, each Owner covenants and agrees that no activity within the scope of this Article shall be commenced on such Owner's Unit unless and until the Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in the Declarant's or its designee's sole discretion. In reviewing and acting upon any request for approval, Declarant shall be acting in its own interest and shall owe no duty to any other Person.

The Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

The Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to an architectural review committee which it may appoint ("ARC"). Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to the right of Declarant, so long as it has architectural review authority hereunder, (i) to revoke such delegation and reassume jurisdiction over the matters previously delegated; and (ii) to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as the Declarant has any rights under this Article, the jurisdiction of the ARC shall be limited to such matters as are specifically delegated to it by the Declarant.

(b) Architectural Review Committee. Upon delegation by Declarant, or upon expiration or termination of the Declarant's rights under this Article, the ARC shall assume jurisdiction over architectural matters hereunder. The ARC shall consist of at least three, but not more than seven, persons. The Declarant shall appoint the members of the initial ARC to serve two year terms. Thereafter, the members of the ARC, by majority vote, shall appoint their successors. Any member of the ARC may be removed and replaced by majority vote of the members of the ARC. The members of the ARC need not be Owners, and may, but need not, include architects, engineers or similar professionals.

In the event that the Declarant fails to appoint the initial members of the ARC, or the members of the ARC fail to appoint successors, or for any other reason there are fewer than three persons willing or able to serve on the ARC, any Owner may call a meeting of the Owners, upon not less than 30 days' prior written notice to all Owners delivered to their Units, for the purpose of electing an ARC. At such meeting, at least 25% of the Owners shall constitute a quorum. If a quorum is present, nominations shall be accepted from the floor and an election shall be held. A majority of the Owners shall determine the number of positions on the ARC and that number of candidates receiving the greatest number of votes cast shall be elected.

Unless and until such time as Declarant delegates all or a portion of its reserved rights to the ARC, or the Declarant's rights under this Article terminate, the ARC and the Owners other than Declarant shall have no jurisdiction over architectural matters.

(c) Fees; Assistance. For purposes of this Article, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer." The Reviewer may establish and charge

reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. The Reviewer may employ architects, engineers, or other persons as deemed necessary to perform the review.

### 5.3. Guidelines and Procedures.

(a) Design Guidelines. The Declarant may, but shall not be obligated to, prepare initial Design Guidelines for the Properties. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary according to land use and from one portion of the Properties to another depending upon the location, unique characteristics, and intended use. The Design Guidelines, if any, are intended to provide guidance to Owners regarding matters of particular concern to the Reviewer in considering applications hereunder. The Design Guidelines, if any, are not the exclusive basis for decisions of the Reviewer and compliance with the Design Guidelines does not guarantee approval of any application. Any Design Guidelines shall apply in addition to the provisions of any local ordinances or regulations applicable to the Properties.

So long as Declarant owns any portion of the property described in Exhibit "A" and "B," Declarant shall have the sole authority to adopt, modify or amend Design Guidelines. Thereafter, the ARC may modify the Design Guidelines. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; the Design Guidelines may be amended to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines, if any, available to Owners who seek to undertake construction within the Properties. In the Declarant's discretion, such Design Guidelines may be recorded in the Public Records, in which event the recorded version, as it may unilaterally be amended by Declarant from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

All structures and improvements constructed upon a Unit shall be constructed in strict compliance with the Design Guidelines, if any, in effect at the time the plans for such improvements are submitted to and approved by the Reviewer, unless a written variance has been granted pursuant to Section 5.5. The findings and conclusions of the Reviewer shall be final so long as the Reviewer has acted in good faith.

(b) Procedures. No activities within the scope of Section 5.1 shall commence on any portion of the Properties until an application for approval of the proposed work has been submitted to and approved by the Reviewer. Such application shall be in the form required by the Reviewer and shall include plans and specifications ("Plans") showing the site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, and other features of proposed construction, as applicable. The Reviewer may require the submission of such additional information as it deems necessary to consider any application.

In reviewing each submission, the Reviewer may consider (but shall not be restricted to consideration of) the quality of workmanship and design, harmony of external design with existing structures within the Properties, and location in relation to surrounding structures, topography, and finish grade elevation, among other things. Decisions of the Reviewer may be based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may differ.

In the event that the Reviewer fails to approve or to disapprove in writing any application within 30 days after submission of all information and materials reasonably requested, the applicant may notify the Reviewer by certified mail, return receipt requested, at the address for such notices set forth in the current edition of the Design Guidelines, stating that no response has been received and that unless a written response is given at the address set forth in such notice within 15 days of the Reviewer's receipt of the Owner's notice, as evidenced by the return receipt, the application shall be deemed approved. A response shall be deemed given when deposited in the U.S. Mail, certified mail, return receipt requested, postage prepaid, properly addressed to the applicant at the address stated in such applicant's notice, or upon receipt if given by any other means. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the Reviewer pursuant to Section 5.5.

If construction does not commence on a project for which approval has been granted within 12 months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to re-submit the Plans for reconsideration. All work shall be completed within one year of commencement or such other period as the Reviewer may specify in the notice of approval, unless completion within such time is delayed due to causes beyond the reasonable control of the Owner, as determined in the sole discretion of the Reviewer.

#### 5.4. No Waiver of Future Approvals.

Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

#### 5.5. Variance.

The Reviewer may authorize variances from compliance with any of its guidelines when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) preclude the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

5.6. Limitation of Liability.

The standards and procedures established by this Article are intended to enhance the overall aesthetics of the Properties and shall not create any duty to any Person. The Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring the appropriateness of soils, drainage and general site work. Neither the Declarant, the ARC, any member of the ARC, nor any agent or professional retained by the Reviewer, shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit.

5.7. Enforcement.

Any structure or improvement placed or made in violation of this Article or the Design Guidelines shall be deemed to be nonconforming, except to the extent that a variance has been granted pursuant to Section 5.5. Upon written request from Declarant or the ARC, Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, then in addition to such remedies as are authorized elsewhere in this Declaration, Declarant or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with interest at the maximum rate then allowed by law, may be recovered against the Owner of such Unit.

Unless otherwise specified in writing by the Reviewer, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Unit, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Declarant shall be authorized, after notice to the Owner of the Unit and an opportunity to be heard, to enter upon the Unit and remove or complete any incomplete work and to recover all costs incurred against the Owner of such Unit.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Declarant from the Properties, subject to the notice and an opportunity to be heard. In such event, neither the Declarant nor its employees, officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Declarant and the ARC shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and any decisions rendered hereunder.

## Article VI USE RESTRICTIONS

### 6.1. General.

Units shall be used only for residential and related purposes consistent with applicable zoning, this Declaration and any Supplemental Declaration. Subject to applicable zoning, such uses may include, without limitation, an information center and/or a sales offices for Declarant and/or any real estate broker retained by the Declarant to assist in the sale or resale of property described on Exhibit "A" or "B", model homes, and sales offices for such builders as Declarant may authorize.

### 6.2. Restricted Activities.

The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, Declarant:

- (a) Parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles or inoperable vehicles in places other than enclosed garages; provided, construction, service and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit. For purposes of this provision, the term "commercial vehicle" shall not include government-issued vehicles or automobiles of a type commonly used for family transportation notwithstanding that they may have commercial lettering or logos on their exteriors, provided no objects, signs, or other forms of commercial advertising are attached or affixed to the vehicle;
- (b) Raising, breeding or keeping of animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, no pets shall be permitted to roam free, or make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units. Dogs shall be kept on a leash or otherwise confined whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;
- (c) Any activity which violates local, state, or federal laws or regulations;
- (d) Pursuit of hobbies or other activities which cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;
- (e) Any activity which causes an unreasonable level of embarrassment, discomfort, annoyance, or nuisance to the occupants of other Units;
- (f) Outside burning of trash, leaves, debris, or other materials, except by the Declarant;



(g) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be an unreasonable annoyance or nuisance to occupants of other Units, except alarm devices used exclusively for security purposes;

(h) Posting or maintaining any sign, banner, or advertisement anywhere within the Properties, except (A) such signs as may be erected by Declarant, posted by governmental authorities, or required by law; (B) such signs as may be approved by the Reviewer under Article V and maintained in a manner consistent with the Design Guidelines and any applicable governmental regulations; and (C) such signs as may be posted by builders approved by Declarant on Units which they own in compliance with the Design Guidelines;

(i) Dumping of grass clippings, leaves, or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Properties, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant may dump and bury rocks and trees removed from a building site on such building site;

(j) Accumulation of rubbish, trash, or garbage within the Properties except between regular garbage pick ups, and then only in approved containers;

(k) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and recorded in the Public Records, except that the Declarant shall be permitted to subdivide or replat Units which it owns;

(l) Swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams or other bodies of water within the Properties, except Lake Wylie. Notwithstanding this, the Declarant, its successors and assigns, shall be permitted and shall have the exclusive right and easement to retrieve golf balls from bodies of water and to draw water from lakes, ponds, and streams within the Properties for purposes of irrigation and such other purposes as Declarant shall deem desirable. Declarant shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams, or other bodies of water within or adjacent to the Properties;

(m) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years;

(n) Use and discharge of firecrackers and other fireworks, or discharge of firearms, within the Properties;

(o) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment;

(p) Any business, trade, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (A) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (B) the business activity conforms to all zoning requirements for the Properties; (C) the business activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (D) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether such activity is engaged in full or part-time, such activity is intended to or does generate a profit, or a license is required.

The conduct of a garage sale, moving sale, and estate sale on or from a Unit shall not be considered a business or trade within the meaning of this subsection; provided, no such sale shall last longer than 3 days and no Unit shall be used for more than one such sale in any 6-month period.

The leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program;

(q) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article V;

(r) Operation of motorized vehicles, golf carts, or similar items on pathways, bike paths, or trails within the Properties, except that golf carts may be operated on cart paths intended for such purposes; and

(s) Any construction, erection, or placement of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article V of the Declaration. This shall include, without limitation, signs; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers, and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind.

### 6.3. Prohibited Conditions.

The following shall be prohibited within the Properties:

(a) Placement or keeping of any plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of such

a nature as to threaten the safety of, or unreasonably diminish or interfere with the enjoyment of the Properties by, occupants of other Units;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair; and

(c) Overhead utility lines, except for those main feeders required by Duke Energy Corporation, its successors or assigns, and the existing service, if any, provided by Rural Electrical Association, its successors or assigns, and such other lines as the City may specifically authorize;

(d) Street lights, other than those installed by or at the request of Declarant in the course of development of the Properties, and pole-mounted yard lights other than one decorative yard light placed in the front yard of a Unit on a pole not to exceed seven feet in height or eight inches in diameter.

#### 6.4. Leasing of Units.

"Leasing," for purposes of this paragraph, is defined as regular, exclusive occupancy of a Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. Any Owner that leases his/her Unit must make available to the lessee copies of the Governing Documents.

#### 6.5. Open Space and Natural Areas.

(a) The Properties may contain natural and environmentally sensitive areas that may serve as habitats for a variety of native plants and wildlife, including insects, reptiles, and other animals, some of which may pose hazards to persons or pets coming in contact with them. Each Owner and occupant of any Unit, and every person entering the Properties (i) acknowledges that such plants and wildlife are indigenous to the area and are not restrained or restricted in their movement within or through the Properties; and (ii) assumes all risk of personal injury arising from the presence of such plants and wildlife within the Properties. Neither the Declarant, any builder, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall have any duty to take action to control, remove, or eradicate any plant or wildlife in the Properties, nor shall they have any liability for any injury resulting from the presence, movement or propagation of any plant or wildlife within or through the Properties.

(b) The natural areas described in subsection (a) above may also contain creeks, ponds, or intermittent pools of water, muddy areas, and underbrush, among other things, all of which are important to the ecological balance and maintenance of the area as a wildlife habitat. No Owner or occupant of a Unit shall enter upon, or permit their guests or any other person acting on their behalf to enter upon, or disturb such areas in any way without the City's or Declarant's prior written approval.

Article VII EASEMENTS

7.1. Easements for Utilities, Etc.

(a) There are hereby reserved to the Declarant, its designees and assignees (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties (but not through a structure) to the extent reasonably necessary for the purpose of inspecting, maintaining, repairing, replacing, and operating cable television systems and other devices or systems for sending or receiving data and/or other electronic signals; roads, streets, curbs, gutters, Streetscape Improvements, walkways, pathways, and trails; wetlands and drainage systems; street lights and signage; and all utilities, including, but not limited to, water, sewers, telephone, gas, and electricity, and utility meters; and for the purpose of installing any of the foregoing on property which the Declarant owns or within easements designated for such purposes on recorded plats of the Properties.

(b) Declarant specifically grants to the City a perpetual, nonexclusive easement over the Properties to the extent reasonably necessary:

(i) for access, ingress, and egress, and to maintain, repair, or improve the street right-of-way, including the curbs, gutters, and the asphalt driving surface of the streets within the Properties; and

(ii) to maintain, repair and replace Streetscape Improvements to the extent that the City elects to do so (which it shall have no obligation to do) or upon failure of the Owner of the Unit on which they are located to perform its responsibilities under Article III, in which event the City shall have the right to recover the costs of such maintenance and repair from the responsible Owner.

(c) Declarant specifically grants to the local water supplier, electric company, and natural gas supplier easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters, and boxes, as applicable.

(d) Declarant specifically grants to the City and the general public easements for access, ingress, egress and regress over the platted streets and sidewalks within the Properties.

(e) There is hereby reserved to the Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B" of this Declaration, the non-exclusive right and power to grant such specific easements consistent with the easements reserved and granted herein as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibit "A" or "B."

(f) Any damage to a Unit resulting from the exercise of the easements described in this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures

on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

7.2. Easements to Serve Additional Property.

The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees the right to exercise the easements created and reserved in this Section for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration.

7.3. Right of Entry.

The Declarant and the City of Tega Cay shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to Article III hereof, and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, and the Design Guidelines. Such right may be exercised by the Declarant, any duly authorized representative of the City of Tega Cay, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Declarant to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by Declarant, but shall not authorize entry into any single family detached dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

7.4. Temporary Signage Easements.

The Declarant hereby reserves for itself and its designees, successors and assigns, so long as the Declarant or any builder owns property described on Exhibits "A" or "B" for development or sale in the ordinary course of business, temporary non-exclusive easements for the purpose of erecting, maintaining, inspecting, repairing, and replacing advertising, marketing and directional signage over that portion of each Unit consisting of a strip of land 25 feet in width running parallel to and along the entire length of the back (or outside) edge of the curb and guttering of any road or street right-of-way within the Properties.

No sign erected within such easement area shall exceed six feet in height and eight feet in width, nor shall this easement be exercised to erect or maintain more than one sign on any Unit.

## Article VIII DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

### 8.1. Agreement to Avoid Litigation.

(a) The Declarant, all Owners, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Properties without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 8.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of improvements within the Community, other than matters of aesthetic judgment under Article IV, which shall not be subject to review;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 8.2:

(i) any suit by the Declarant or the City to collect amounts due from any Owner hereunder;

(ii) any suit by the Declarant to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve its ability to enforce the provisions of this Declaration;

(iii) any suit between Owners which does not include Declarant as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(iv) any suit in which any indispensable party is not a Bound Party; and

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 8.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

8.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.

(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 8.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an independent agency providing dispute resolution services in the Tega Cay, South Carolina or Charlotte, North Carolina area.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Party shall bear its own costs of the mediation, including attorneys fees, and each Party shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon

prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

## Article IX GENERAL PROVISIONS

### 9.1. Duration.

(a) Unless terminated as provided in Section 9.1(b), this Declaration shall have perpetual duration. If South Carolina law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 20 years each, unless terminated as provided herein. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

(b) Unless otherwise provided by South Carolina law, in which case such law shall control, this Declaration may be terminated only by an instrument signed by Owners of at least 67% of the total Units within the Properties and, if the Declarant owns any property described on Exhibits "A" or "B" to this Declaration, by the Declarant. Any such instrument shall be effective upon recording in the Public Records. 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.

### 9.2. Amendment.

Until a majority of the Units permitted by applicable zoning for the property described on Exhibits "A" and "B" have been conveyed by Declarant or five years from the date of recording of this Declaration, whichever is longer, Declarant may unilaterally amend this Declaration for any reason. Thereafter, so long as Declarant owns any portion of the property described in Exhibit "A" or "B," the Declarant may unilaterally amend this Declaration for any purpose so long as any such amendment does not have a materially adverse effect upon the right of any Owner, unless such Owner consents in writing. Otherwise, this Declaration may be amended by the affirmative vote or written consent, or any combination thereof, of Owners of not less than 67% of the total number of Units within the Properties.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

If an Owner consents to any amendment to this Declaration, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any



Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

9.3. Severability.

Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

9.4. Cumulative Effect; Conflict.

The provisions of this Declaration shall be cumulative with the provisions of any applicable Supplemental Declaration. Nothing in this Section shall preclude any Supplemental Declaration or other recorded declaration, covenants, and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Declarant shall have the standing and authority to enforce the same.

The Governing Documents shall apply to the Properties in addition to the provisions of applicable law, including, without limitation, the ordinances and regulations of the City of Tega Cay, South Carolina. In the event of an inconsistency between the Governing Documents and the provisions of applicable law, the more restrictive shall control except to the extent that the enforcement of a more restrictive provision of the Governing Documents would be unlawful.

9.5. Compliance.

Every Owner and occupant of any Unit shall comply with this Declaration, any applicable Supplemental Declaration, and the Design Guidelines, subject to any variances from the Design Guidelines granted pursuant to Article V. Failure to comply shall be grounds for an action by Declarant or, in a proper case, by any aggrieved Unit Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement rights specifically granted under this Declaration.

9.6. Exhibits.

The exhibits attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 9.2.

9.7. Assignment of Declarant Rights.

Any or all of the special rights and obligations of the Declarant set forth in this Declaration may be transferred or assigned in whole or in part to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

9.8. Golf Course, Parks and Recreational Facilities.

Various Units within the Properties may be located adjacent to or near golf courses, parks, or other recreational facilities. Recreational activities, including, without limitation, tournaments and other special events, may be held at any such golf course or other facilities. Such activities may result in nuisances or hazards to Units and to persons on such Units, including, but not limited to: (a) noise from maintenance equipment (it being specifically understood that golf course maintenance typically takes place at sunrise or sunset and during daylight hours); (b) noise caused by golfers and participants in other recreational activities; (c) use of pesticides, herbicides and fertilizers; (d) view restrictions caused by maturation of trees, shrubs and other landscaping; (e) reduction in privacy caused by pedestrian, vehicle and golf cart traffic; and (g) errant golf balls, golf clubs, and other sports equipment. Each Owner, by purchasing a Unit in the vicinity of the golf course or other recreational facilities expressly assumes the risk of noise, personal injury and property damage caused by the use, maintenance, and operation of such golf course or other recreational facilities.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration as of the date first set forth above.

NNP-TEGA CAY, LLC, a Delaware limited liability company

[Signature]  
Witness  
[Signature]  
Witness  
[Signature]  
[Signature]

By: [Signature] [SEAL]

Name: DAVID B. WRIGHT

Title: ASST. VICE PRESIDENT

By: [Signature] [SEAL]

Name: \_\_\_\_\_

Title: DONNA K. MONSEES  
VICE PRESIDENT


STATE OF SOUTH CAROLINA

COUNTY OF YORK

PERSONALLY appeared before me Gail Belanger, the first witness named above, and made the oath that (s)he saw the within-named NNP-TEGA CAY, LLC, by and through David B. Wright, its duly authorized Assist. Vice President sign and seal the foregoing Declaration of Covenants, Easements, and Restrictions for Lakeshore at Tega Cay, and that (s)he with Adina Norton, the other witness named above, witnessed the execution thereof.

Sworn to before me this 3<sup>rd</sup> day of October, 2000:

[notarial seal]

  
Notary Public for the State of South Carolina

My commission expires: Sept 02, 2008

530401/cadocs/100300/jps

