

Prepared by and hold for: Kimberly P. Thomas, Esq.
Warren Shackleford & Thomas, P.L.L.C. ("Box 204")
Post Office Box 1187
Wake Forest, NC 27588-1187

STATE OF NORTH CAROLINA

WAKE COUNTY

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR HOLDING MILLS TOWNHOMES**

Submitted electronically by "Warren, Shackleford & Thomas, P.L.L.C."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Wake County Register of Deeds.

INDEX OF DECLARATION FOR
HOLDING MILLS TOWNHOMES

ARTICLE I	MUTUALITY OF BENEFIT AND OBLIGATION
Section 1.1	Mutuality
Section 1.2	Benefits and Burdens
ARTICLE II	DEFINITIONS
Section 2.1	Association
Section 2.2	Board of Directors
Section 2.3	Bylaws
Section 2.4	Common Areas
Section 2.5	Declarant
Section 2.6	Declarant Development Period
Section 2.7	Entry Features
Section 2.8	Lot
Section 2.9	Lot in Use
Section 2.10	Member
Section 2.11	Owner
Section 2.12	Property
Section 2.13	Supplemental Declaration
Section 2.14	Townhome
ARTICLE III	PROPERTY
ARTICLE IV	COMMON AREA RIGHTS
Section 4.1	Title to the Common Areas
Section 4.2	Owners' Easements of Enjoyment
Section 4.3	Owners' Easements of Enjoyment – Limited Common Areas
Section 4.4	Delegation of Use
Section 4.5	Easements for Maintenance Purposes
Section 4.6	Maintenance of Common Areas
Section 4.7	Taxes and Governmental Assessments
ARTICLE V	ASSOCIATION MEMBERSHIP AND VOTING RIGHTS
Section 5.1	Membership
Section 5.2	Classes and Voting
ARTICLE VI	COVENANT FOR MAINTENANCE ASSESSMENTS
Section 6.1	Creation of the Lien and Personal Obligation of Assessments
Section 6.2	Purpose of Assessments
Section 6.3	Base Assessments
Section 6.4	Special Assessments
Section 6.5	Specific Assessments
Section 6.6	Notice and Quorum for any Action Authorized Under Section 6.3 and Section 6.4
Section 6.7	Uniform Rate of Assessment
Section 6.8	Declarant and Builder Assessments
Section 6.9	Date of Commencement of Assessments: Due Dates
Section 6.10	Effect of Nonpayment of Assessments: Remedies of the Association
Section 6.11	Subordination of the Lien to Mortgages

ARTICLE VII

Section 7.1	Ownership of Policies
Section 7.2	Coverage
Section 7.3	Fidelity Insurance or Bond
Section 7.4	Premiums
Section 7.5	Proceeds
Section 7.6	Distribution of Insurance Proceeds
Section 7.7	Insurance on Townhomes

INSURANCE

ARTICLE VIII

Section 8.1	General
Section 8.2	Composition
Section 8.3	Procedure
Section 8.4	Jurisdiction
Section 8.5	Enforcement
Section 8.6	Definition of "Improvement"
Section 8.7	Limitation of Liability
Section 8.8	Miscellaneous

ARCHITECTURAL AND APPEARANCE CONTROL

ARTICLE IX

STORM WATER MANAGEMENT

ARTICLE X

Section 10.1	Enforcement
Section 10.2	Reimbursement of Expenses
Section 10.3	Severability
Section 10.4	Effect and Amendment
Section 10.5	Amendment Form
Section 10.6	Contract Rights of Association
Section 10.7	Lender's Notice
Section 10.8	Duty of Maintenance
Section 10.9	Party Walls
Section 10.10	Fines and Suspension of Privileges or Services
Section 10.11	Enforcement
Section 10.12	Dissolution or Insolvency of the Association

GENERAL PROVISIONS

ARTICLE XI

Section 11.1	Use of Property
Section 11.2	Compliance with Laws
Section 11.3	Animals
Section 11.4	Antenna
Section 11.5	Clotheslines
Section 11.6	No Detached or Temporary Buildings
Section 11.7	Drainage
Section 11.8	Entry Features
Section 11.9	Fences
Section 11.10	Firearms
Section 11.11	Fireworks
Section 11.12	Gardens and Play Equipment
Section 11.13	Outdoor Grills
Section 11.14	Hobbies
Section 11.15	Landscaping
Section 11.16	Leasing
Section 11.17	Lighting
Section 11.18	Mail Kiosks

USE OF PROPERTY RESTRICTIONS

- Section 11.19 Motor Vehicles, Boats and Recreation Vehicles
- Section 11.20 Nuisances
- Section 11.21 Parking
- Section 11.22 Private Roads
- Section 11.23 Retaining Walls
- Section 11.24 Setbacks
- Section 11.25 Sight Distance
- Section 11.26 Signs
- Section 11.27 Solar Panels and Energy Conservation Equipment
- Section 11.28 Swimming Pools
- Section 11.29 Termite Control
- Section 11.30 Trash Removal
- Section 11.31 Townhome Exteriors
- Section 11.32 Window Air Conditioners
- Section 11.33 Windows and Doors
- Section 11.34 Unlawful/Illegal Activities
- Section 11.35 Utility Lines
- Section 11.36 Vehicle Advertising

ARTICLE XII RULES AND REGULATIONS

- Section 12.1 Rules and Regulations
- Section 12.2 Townhome Common Area Administrative Rules

ARTICLE XIII RIGHTS AND EASEMENTS GRANTED OR RESERVED BY DECLARANT

- Section 13.1 General Easements
- Section 13.2 Easement for Utilities
- Section 13.3 Entry Sign
- Section 13.4 Television/Cable/Internet Easement
- Section 13.5 Platting and Additional Restrictions
- Section 13.6 Drainage Areas
- Section 13.7 Temporary Structures
- Section 13.8 Common Retaining Wall and Reinforcement Zone Easement

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR HOLDING MILLS TOWNHOMES**

THIS DECLARATION is made on the date hereinafter set forth by 11 INVESTMENTS, LLC, a North Carolina limited liability company, hereinafter referred to as "Declarant".

WHEREAS, Declarant is the owner of certain Property described hereinafter located in Wake County, State of North Carolina; and

WHEREAS, the Property is a subdivision development approved by the appropriate governmental authorities of Wake County, North Carolina, now known as HOLDING MILLS TOWNHOMES; and

WHEREAS, in accordance with such approved Townhome development, Declarant contemplates developing HOLDING MILLS TOWNHOMES as a residential development; and

WHEREAS, Declarant desires to impose certain easements, covenants, conditions and restrictions upon all of the Property;

WHEREAS, Declarant has caused to be incorporated under North Carolina law Holding Mills Townhomes Homeowners Association, Inc., as a non-profit corporation for the purpose of exercising and performing the aforesaid functions, among others, and which shall be in good standing prior to the sale of any Townhome; and

NOW, THEREFORE, Declarant hereby declares that all of the Property described hereinafter shall be held, sold, conveyed, and occupied subject to the following easements, restrictions, covenants and conditions, which are for the purpose of enhancing and protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I
MUTUALITY OF BENEFIT AND OBLIGATION

Section 1.1 Mutuality. The covenants, restrictions, and agreements set forth in this Declaration are made for the mutual and reciprocal benefit of every Lot within the Property and are intended to create reciprocal rights among the Owners.

Section 1.2 Benefits and Burdens. Every Owner when taking title to a Lot within the Property agrees to all the terms and provisions of this Declaration and shall be entitled to its benefits and subject to its obligations and burdens.

ARTICLE II DEFINITIONS

Section 2.1 Association. Association shall mean and refer to HOLDING MILLS TOWNHOMES HOMEOWNERS ASSOCIATION, INC., a North Carolina nonprofit corporation, its successors and assigns. This is the Declaration to which the Articles of Incorporation (the "Articles") and Bylaws (the "Bylaws") of the Association make reference. The Association shall be formed prior to the date the first Lot is sold.

Section 2.2 Board of Directors. Board of Directors shall mean the elected body governing the Association as provided by North Carolina corporate law.

Section 2.3 Bylaws. Bylaws shall mean the duly adopted bylaws of the Association, as may be amended from time to time.

Section 2.4 Common Areas. Common Areas shall mean those certain portions of the Property (including any improvements thereto) owned by the Association for the common use and enjoyment of the Owners, including any landscaping, stormwater areas, entry features and retaining walls. The Common Areas shall include any easement rights granted to the Association.

Section 2.5 Declarant. Declarant shall mean and refer to 11 INVESTMENTS, LLC, a North Carolina limited liability company, its successors and assigns to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as Declarant may impose in the transfer thereof.

Section 2.6 Declarant Development Period. Declarant Development Period shall mean and refer to that period of time during which: (i) the Declarant is the owner of any portion of the Property, including a Lot; (ii) Declarant is in any way involved in the maintenance of the streets, Common Areas or Entry Features; (iii) Declarant is in any way involved in the marketing of the Property through advertisements, signs, listings or providing an on-site real estate agent; or (iv) Declarant is providing funds to the Association.

Section 2.7 Entry Features. Entry Features shall mean those portions of the Common Areas upon which permanent identification signs or monuments shall be initially installed and erected by Declarant at the various entrances of HOLDING MILLS TOWNHOMES, and upon conveyance of easement rights to such portions of the Common Areas to the Association, the Entry Features shall be maintained by the Association in accordance with this Declaration.

Section 2.8 Lot. Lot shall mean and refer to any numbered or lettered plot of land shown upon any recorded subdivision map of the Property which is intended for residential purposes.

Section 2.9 Lot in Use. Lot in Use shall mean and refer to any Lot on which a residential structure has been fully constructed and is being or to be occupied as a residence.

Section 2.10 Member. Member shall mean and refer to every person or entity who holds membership in the Association.

Section 2.11 Owner. Owner shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2.12 Property. Property shall mean and refer to that certain real property, together with all improvements, more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

Section 2.13 Supplemental Declaration. Supplemental Declaration shall mean an amendment or supplement to this Declaration which subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

Section 2.14 Townhome. Townhome shall mean one unit of a multi-unit single family attached residence, as located on a Lot as shown on the Plat.

ARTICLE III **PROPERTY**

The Property is hereby made subject to this Declaration and the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Declarant, the Association and each Owner subject to this Declaration and the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration.

The Declarant hereby reserves the right to subject other real property to this Declaration and to bring such "Additional Property" within the jurisdiction of the Association without the consent of the other Members. All Additional Property must be contiguous (which terms includes on the opposite side of a street right of way) to some portion of the property already subject to this Declaration

Each Supplemental Declaration shall be effective upon recordation in the WAKE County, North Carolina Registry, and shall incorporate the provisions of this Declaration either by reference hereto or by fully setting out the provisions hereof. Such Supplemental Declaration need not be in any specific form (for example, it may be contained in a deed from Declarant conveying the real property being subjected to this Declaration) but shall clearly indicate the intention to subject Additional Property to this Declaration. A Supplemental Declaration may contain such other terms and conditions, not inconsistent herewith, as the parties subjecting the Additional Property to this Declaration may agree upon. Nothing contained herein shall prohibit the owner of any Additional Property made subject to this Declaration by Supplemental Declaration from subjecting such Additional Property to other covenants, conditions and restrictions not

inconsistent with the terms of this Declaration. In addition, as to any Supplemental Declaration which adds property to this Declaration, Declarant or the Association may include such additional or different covenants, conditions, restrictions, easements, uses, privileges, charges, assessments, liens, options, rights, terms and provisions as Declarant or the Association, in its sole discretion, may determine.

ARTICLE IV **COMMON AREA RIGHTS**

Section 4.1 Title to the Common Areas. The Declarant hereby agrees that it will convey fee simple title or, as applicable, easement rights for the Common Areas to the Association, free and clear of all encumbrances and liens, except public streets, private roads or drives, maintenance easements, utility easements and any use restrictions of record, and other matters of record, including this Declaration, no later than on or before ninety (90) days following the conveyance of the last Lot owned by the Declarant to any party. Upon the recording of any deed or deeds conveying Common Area to the Association, the Association shall be conclusively deemed to have accepted the conveyance evidenced by such deed or deeds.

Section 4.2 Owners' Easement of Enjoyment. Except for Limited Common Areas, every Owner shall have a right and easement of enjoyment in and to and right of ingress and egress over the Common Areas for its intended purpose, which rights shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to permit the charge of reasonable fees for the enjoyment of any portion of the Common Areas;
- (b) the right of the Association to suspend the voting rights during which any assessment against an Owner's Lot remains unpaid;
- (c) the right of the Association or Declarant to formulate, publish, impose and enforce rules and regulations governing the use and enjoyment of the Common Areas;
- (d) all provisions of this Declaration;
- (e) all governmental restrictions;
- (f) easements, restrictions, agreements and other matters of record.

Section 4.3 Owners' Easement of Enjoyment – Limited Common Areas.

If Common Areas are designated as Limited Common Areas, only the Owners of Lots benefited by the Limited Common Areas will have the right and easement of enjoyment and use in and to said Limited Common Areas, which such right and easement Owners shall exercise in accordance with and subject to the limitations set forth in Section 4.2.

Section 4.4 Delegation of Use. Subject to Section 4.2 and 4.3 above, any Owner may delegate, in accordance with the Bylaws, his rights of enjoyment in and to

the Common Areas, to the members of his family, his lawful tenants, or contract purchasers who reside on such Owner's Lot and to his household guests. Such Member shall notify the Secretary of the Association in writing of the name of the delegate. The rights and privileges of such delegates are subject to suspension to the same extent as those of the Members for violations of these covenants, conditions and restrictions.

Section 4.5 Easement for Maintenance Purposes. The Declarant hereby grants to the Association and its successors, assigns, agents, and contractors a perpetual, non-exclusive blanket easement in, on, over and upon the Property as may be reasonably necessary for the purpose of maintaining the Common Area, including the Surface Water or Storm Water Management System, or other portions of the Property to be maintained by the Association, in accordance with this Declaration, including in, on, over, and upon each Lot, provided that such easement shall be released with respect to any portion of a Lot on which a residence is constructed and located. The easement granted hereby shall not be exercised by any party in a manner which materially and unreasonably interferes with the use, occupancy or enjoyment of any improved portion of the Property or Common Areas, or easement which is prohibited by law. In addition, if any portion of the Property shall be damaged as a result of the exercise of the easement rights hereby granted, such portions of the Property shall be promptly restored to the condition that existed prior to such damage by the party exercising such rights. Each Lot shall be subject to a perpetual easement in favor of the Association and its contractors and agents for the maintenance of the Lots as provided for in this Declaration.

Section 4.6 Maintenance of Common Areas. The Association shall maintain in good repair, operate, insure and replace as necessary the Common Area and any improvements, except improvements owned by others such as utilities to the Property, located on the Common Area, if any. All maintenance obligations of the Association shall be performed as directed by the Board and all maintenance obligations shall be a common expense of the Association to be collected and paid in the manner prescribed in this Declaration.

Section 4.7 Taxes and Governmental Assessments. The Association shall pay when due and before the accrual of penalties thereon, all taxes, assessments, license fees, permit fees and other charges imposed by any governmental authority in connection with the Association's ownership and/or operation of the Common Areas. The Association may institute appropriate legal proceedings for the purpose of contesting or objecting to the amount or validity of any such tax, assessment or fee charged by the governmental authority. If the Association fails to pay any governmental charge when due, then each Owner of a Lot shall become personally obligated to pay the governmental authority imposing such charge in an amount determined by multiplying the total charge by a fraction, the denominator of which is the total number of Lots and the numerator of which is the number of Lots owned by Owner ("Owner's Share"). If the Owner does not pay the Owner's Share, then the Owner's Share shall become a continuing lien on the Lot

owned by the Owner and the governmental authority may bring an action at law against the Owner to obtain payment or may foreclose the lien against the Lot of the Owner.

ARTICLE V
ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 5.1 Membership. Every Owner of a Lot which is subject to an assessment shall be a Member of the Association, provided that any such person or entity which holds such interest only as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 5.2 Classes and Voting. The Association shall have the following two classes of voting membership:

- a) **Class A.** Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any such 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 or a fractional vote be cast with respect to any one Lot.
- b) **Class B.** The Class B Member shall be the Declarant. During the existence of the Class B Membership, the Class B Member shall be entitled to vote on all matters or issues before or considered by the Association. The Class B Member shall be entitled to ten (10) votes for each Lot subject to the Declaration. The Class B membership shall cease and be converted to a Class A membership upon each of the following conditions being met: (i) the Declarant is no longer the owner of any portion of the Property, including a Lot or Common Areas; (ii) Declarant is no longer in any way involved in the maintenance of the streets, Common Areas or Entry Features; (iii) Declarant is no longer in any way involved in the marketing of the Property through advertisements, signs, listings or providing an on-site real estate agent; and (iv) Declarant is no longer providing funds to the Association.

ARTICLE VI
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.1 Creation of the Lien and Personal Obligation of Assessments.

Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, jointly and severally covenants and agrees to pay to the Association the following: (1) base assessments or charges; (2) any special assessments, and/or (3) any specific assessments against any particular Lot which are established pursuant to the terms of this Declaration including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration. All such assessments to be established and collected as hereinafter provided. The base, special and specific assessments, together with interest, late charges, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, late charges, costs and reasonable attorneys' fees, shall also be the personal obligation of the person(s) who was the Owner of such Lot at the time the assessment became due. Each Owner shall be personally liable for the portion of the assessment coming due while the Owner of a Lot, and each Grantee of an Owner shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance.

Section 6.2 Purpose of Assessments.

- a) The assessments levied by the Association shall be used to promote the welfare of the residents of the Property and for the improvement, maintenance and operation of the Common Areas, maintenance of entry features and retaining walls, operating expenses of the Association, payment of improvements and betterments, and the establishment of reserve funds for the addition and/or replacement of capital improvements, street maintenance, repairs and replacement, non-recurring expenses, deferred maintenance and Surface Water or Storm Water Management System.
- b) In addition to the maintenance of the Common Areas, the Association shall provide exterior maintenance upon each Townhome, which is subject to assessments hereunder as follows: paint, repair, replace and care for roof shingles and sheathing, gutters and downspouts, exterior building surfaces, trees, shrubs, grass, walkways, front porch, mailbox kiosk and other exterior improvements and betterments; provided that the Association shall not be responsible for providing exterior maintenance for any improvements and betterments made and installed by Owners. Such exterior maintenance by the Association shall not include windows, screens, glass surfaces, doors, garage doors, rear porches/patios, and driveways. In the event that the need for maintenance or repair by the Association is caused through the willful or negligent act of any Owner, his or her family, guests, invitees or delegates, the

cost of such maintenance and repair shall be assessed against the Owner(s) of such Lot(s) as a Specific Assessment pursuant to Section 6.5 below and may be collected by the Association as provided in Section 6.10 below and as otherwise provided for in this Declaration.

- c) The base assessments for each Lot may include, without limitation, the following: operating expenses of the Association including sums for property taxes, governmental fees, insurance premiums, legal and accounting fees, management fees, charges for utilities for common areas, services provided by the Association, janitorial and cleaning fees, landscape maintenance, expenses related to the operation and maintenance of the storm water management system and storm water detention pond, expenses related to the operation and maintenance of the recreation and other facilities, and expenses related to the indemnification of officers and directors as provided in the Bylaws.

Section 6.3 Base Assessments. Base Assessments shall be established by the Board of Directors based upon an annual budget. The budget shall include any contributions to be made to a reserve fund for the repair and replacement of capital assets, based on a separate reserve budget which takes into account the number and nature of replaceable assets, the expected life of each asset and each asset's expected repair or replacement cost. The budget shall reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots and the amount to be generated through the levy of Base Assessments and Special Assessments against the Lots as authorized in Article VI.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the base assessment may not be increased by the Association each year by more than twenty percent (20%) above the base assessment for the previous year without a vote by the Members.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the base assessment may be increased above twenty percent (20%) by a vote of two-thirds (2/3) of the Members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) Owners shall not be assessed until a Certificate of Occupancy or similar document has been issued by the appropriate municipality and the Lot has been conveyed to the Owner. The initial based assessment per year for each Lot shall be the sum of Nine hundred dollars and 00/100 (\$900.00).
- (d) At the first conveyance of any Lot with a completed residential dwelling thereon, the Grantee of such conveyance shall pay the Association the sum of One hundred and Fifty dollars and 00/100 (\$150.00) for each Lot as a

contribution to the capital of the Association (the "Capital Contribution"). The Association may use the Capital Contribution or any part thereof for any purposes authorized by this Declaration. Amounts paid into such fund shall be in addition to and shall not be considered as an advance payment of any portion of the base, special or specific assessments. This amount shall be due at the time of closing and payable to the Association. Failure to make said payment could result in a lien against the lot.

Section 6.4 Special Assessments. In addition to the base assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of covering unbudgeted expenses or underbudgeted expenses or defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, provided, however, any such assessment shall require the written consent of the majority of the Board of Directors and the consent of the Declarant during the Declarant Control Period. The funds collected pursuant to the special assessment shall be used solely for the purpose(s) identified by the Board of Directors at the time the special assessment is levied.

Section 6.5 Specific Assessments. The Board shall have the authorization to levy Specific Assessments against a particular Townhome Lot, (1) to cover the costs, including administrative costs, of providing services to the Townhome Lots at the request of the Owner; and (2) to cover costs incurred in bringing the Townhome Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Townhome Lot, their agents, contractors, employees, licensees, invitees, or guests or costs incurred for bringing suit against an Owner for failure to pay assessments owed of any nature, provided the Board shall give the Townhome Lot Owner prior written notice before levying any Specific Assessment.

Section 6.6 Notice and Quorum for any Action Authorized Under Section 6.3 and 6.4: Written notice of any meeting called for the purpose of taking any action authorized under Section 6.3 and 6.4 of this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each appropriate and affected class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6.7 Uniform Rate of Assessment. Both base and special assessments must be fixed at a uniform rate per Lot and base assessments may be collected on an annual, monthly or quarterly basis. Specific assessments may be to the contrary and the

Association shall have the power, right and authority to issue a specific assessment against any Lot and its Owner if such Owner shall fail to reimburse the Association or the Declarant, as the case may be, pursuant to the provisions of this Article Section 6.5 and Section 6.10 and Article X Section 10.1 and Section 10.2 of this Declaration and as otherwise provided for in this Declaration.

Section 6.8 Declarant and Builder Assessments. Notwithstanding any provision to the contrary, during the Declarant Development Period, the Lots and other portions of the Property owned by the Declarant or the builder of the initial improvement on any Lot shall not be subject to any base, special, or specific assessments levied by the Association or to any lien for such assessments. During the Declarant Development Period, the Declarant may pay the balance of the actual operating expenses of the Association (excluding costs of major repairs, deferred maintenance, replacements and reserves) remaining after the Association levies and collects assessments from Owners, other than the Declarant. The Declarant shall only be obligated to fund such balance only as the expenses are actually incurred by the Association and only during the Declarant Development Period. At the Declarant's option, the Declarant may notify the Board that it will no longer pay for the operating deficits of the Association. Upon such notice, Declarant shall become obligated to pay assessments on Lots in Use owned by it within the Property on the same basis as any other Owner. In no event shall the Declarant be obligated to pay for operating deficits of the Association after Declarant no longer owns any Lots within the Property.

Section 6.9 Date of Commencement of Assessments: Due Dates. The base assessments provided for herein shall commence and shall be due and payable as to all Lots on the first day of the month following the platting of record of such Lot and shall continue on the first day of each calendar year thereafter. Base assessments shall be collected in advance on a periodic basis established by the Board of Directors from time to time, which periodic basis shall not be less frequent than annually. Unless the Board provides otherwise, the base assessment shall be due and payable in advance on the first day of each month. The first base assessment applicable to a Lot shall be adjusted according to the number of months remaining in the calendar year. Dues shall become first due only upon the issuance of a Certificate of Occupancy and following the Closing by the occupant of the home.

The Board of Directors shall fix the amount of the base assessment against each Lot at least sixty (60) days in advance of each annual assessment period. Written notice of the base assessment shall be sent to every Owner subject thereto. The due date shall be as previously set forth herein, unless otherwise established by the Board of Directors. 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. A properly executed certificate of the Association as to the

status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 6.10 Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment (base, special or specific) or other charges not paid within ten (10) days after the due date shall bear interest from the due date until date paid, at a rate not to exceed the lesser of the maximum rate permitted by law or Eighteen percent (18%) per annum on the principal amount due and shall be subject to a late charge not to exceed the greater of Twenty and No/100 Dollars (\$20.00) per month or 10% of the amount unpaid.

The base, special, and specific assessments, together with interest, late charges, costs, including without limitation and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made in favor of the Association. The Association shall be entitled to file a document evidencing such lien in the land records of Wake County.

Any assessment which is not paid within thirty (30) days after the due date shall be delinquent. The Association may bring an action at law against the Owner personally obligated to pay the same for such delinquent assessment, interest, late charges, costs and reasonable attorneys' fees of any such action, or foreclose the lien against the Lot. For purposes of this Section 6.10, the amount of delinquent assessment, plus accrued interest and late charges shall be considered evidenced by this Section 6.10 and, therefore, evidence of indebtedness shall exist hereby. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Areas or abandonment of his Lot. No diminution or abatement of any assessment shall be claimed or allowed by reason of any failure of the Association to take some action or perform some function required to be taken or performed by the Association or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association or from any action taken by the Association to comply with any law, ordinance or directive of any governmental or municipal authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner. All payments shall be applied first to costs, then to attorney's fees, then to late charges, then to interest and then to delinquent assessment.

Section 6.11 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII
INSURANCE

Section 7.1 Ownership of Policies. Contracts of insurance upon the Common Areas shall be purchased by the Association for the benefit of the Association. The Association may reevaluate its coverage from time to time and may provide, subject to Section 7.2 of this Article, for such insurance coverage as it deems appropriate. The policies may contain a reasonable deductible.

Section 7.2 Coverage. All improvements and personal property included in the Common Areas shall be insured in an amount equal to full replacement value as determined annually by the Association with the assistance of the insurance company underwriting the coverage. Such coverage shall provide protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement and such other risks as from time to time shall be customarily covered with respect thereto.

The Association shall also purchase a general and public liability policy covering the Association and its members for damages caused by the negligence of the Association or any of its members or agents, as well as directors' and officers' liability insurance. The policy shall have a combined single limit of at least One Million Dollars (\$1,000,000.00). The Association may purchase such other insurance necessary to satisfy applicable laws and regulations or which are deemed necessary in the sole discretion of the Board.

Section 7.3 Fidelity Insurance or Bond. All persons responsible for or authorized to expend funds or otherwise deal in the assets of the Association, and who are not contracted by the Declarant, shall first be bonded by a fidelity insurer to indemnify the Association for any loss or default in the performance of their duties in an amount equal to at least one-half (1/2) the annual assessment plus accumulated reserves.

Section 7.4 Premiums. Premiums for contracts of insurance purchased by the Association shall be common expenses of the Association and paid by the Association.

Section 7.5 Proceeds. All contracts of insurance purchased by the Association shall be for the benefit of the Association and its mortgagees, if any, as their interests may appear, and the Owners as Members of the Association, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein.

Section 7.6 Distribution of Insurance Proceeds. Proceeds of contracts of insurance received by the Association as insurance trustee shall be distributed to or for the benefit of the beneficiary or beneficiaries thereof in the following manner:

- (a) The proceeds shall be paid first to defray the cost of reconstruction and repair of casualty or liability so covered.

- (b) Any expense of the insurance trustee may be paid from proceeds after payment of reconstruction or repair expenses or liability. Any proceeds remaining thereafter shall be distributed to the beneficiary or beneficiaries of the trust.

Section 7.7 Insurance on Townhomes. Every Owner shall maintain in full force and effect and at all times fire and hazard insurance from an insurer reasonably approved by the Board, in an amount equal to the full replacement value of his/her Townhome, including the value of excavations and foundations. An Owner shall provide to the Board, upon request, evidence of such insurance.

ARTICLE VIII **ARCHITECTURAL AND APPEARANCE CONTROL**

Section 8.1 General. Anything contained in this Declaration which may be construed to the contrary notwithstanding, no tree removal, site preparation on any Lot or change in grade or slope of any Lot or erection of buildings or exterior additions or alterations to any building situated upon the Property or erection of or changes or additions in hedges, walls and other structures, or construction of any Improvements, shall be commenced, erected or maintained on any Lot until the architectural control committee appointed as hereinafter provided (the "Architectural Control Committee" or "ACC"), has approved the plans and specifications therefor and the location of such Improvements. In such cases where the proposed plans or specifications require the approval of the Town of Youngsville or the County of Wake Planning Boards, the owner of the property must obtain, at their own expense, the requisite governmental approvals. In no case is it the responsibility of the Board or the Architectural Control Committee to determine whether or not the aforementioned governmental approval of the proposed plans is required. Approval by the Association shall not indemnify a property owner for failure to obtain the necessary governmental approval.

Section 8.2 Composition. For so long as Declarant owns one or more Lots, Declarant shall annually appoint the members of the ACC, which will be composed of up to three (3) individuals at the discretion of the Declarant, each generally familiar with residential and community development design matters and knowledgeable about the Declarant's concern for a high level of taste and design standards within HOLDING MILLS TOWNHOMES. In the event of the death or resignation of any member of the Architectural Control Committee, Declarant, for so long as it has the authority to appoint the members of the Architectural Control Committee, and thereafter, the remaining members of the Architectural Control Committee, shall have full authority to designate and appoint a successor. No member of the ACC shall be liable for claims, causes of action or damages (except where occasioned by gross negligence or willful misconduct of such member) arising out of services performed pursuant to this Declaration. Upon final

termination of Declarant's membership in the Association, the Board of Directors of the Association shall appoint three (3) members of the Architectural Control Committee on an annual basis. At any time, Declarant may elect not to appoint the members of the Architectural Control Committee and may assign this right to the Board of Directors of the Association.

Section 8.3 Procedure. No Improvement of any kind or nature shall be erected, remodeled or placed on any Lot until all plans and specifications therefor and a site plan therefor have been submitted to and approved in writing by the Architectural Control Committee, as to:

- (i) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, and facing of main elevation with respect to nearby streets.
- (ii) conformity and harmony of the external design, color, type and appearance of exterior surfaces;
- (iii) location with respect to topography and finished grade elevation and effect of location and use on neighboring Lots and improvements situated thereon and drainage arrangement; and
- (iv) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within bulletins promulgated by the Architectural Control Committee, or matters in which the Architectural Control Committee has been vested with the authority to render a final interpretation and decision.

Any modification or change to the Architectural Control Committee approved set of plans and specifications must again be submitted to the Architectural Control Committee for its inspection and approval. The Architectural Control Committee's approval or disapproval, as required herein, shall be in writing. If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject the balance.

The Architectural Control Committee may, but shall not be so required, from time to time publish and promulgate architectural standards bulletins which shall be fair, reasonable and uniformly applied in regard to the Lots and shall carry forward the spirit and intention of these covenants, conditions and restrictions. Although the Architectural Control Committee shall not have unbridled discretion, they will have broad discretion with respect to taste, design and any standards specified herein, the Architectural Control Committee shall be responsive to technological advances or general changes in architectural designs and materials and related conditions in future years and use its best efforts to balance the equities between matters of taste and design (on the one hand) and use of private property (on the other hand). Such bulletins, if any, shall supplement these covenants, conditions and restrictions and are incorporated herein by reference.

Section 8.4 Jurisdiction. The Architectural Control Committee is authorized and empowered to consider and review any and all aspects of the construction of any Improvements on a Lot which may, in the opinion of the Architectural Control Committee, adversely affect the living enjoyment of one or more Owners or the general value of the Property.

Section 8.5 Enforcement. The Architectural Control Committee and/or the Association shall have the specific, nonexclusive right (but not obligation) to enforce the provisions contained in this Article and/or to prevent any violation of the provisions contained in this Article by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions contained in this Article.

Section 8.6 Definition of "Improvement". The term "Improvement" shall mean and include all buildings, storage sheds or areas, roofed structures, parking areas, loading areas, trackage, fences, walls, hedges, mass plantings, poles, driveways, ponds, lakes, changes in grade or slope, site preparation, signs, exterior illumination, changes in any exterior color or shape and any new exterior construction or exterior improvement exceeding \$1,000.00 in cost which may not be included in any of the foregoing. The definition of Improvement does not include shrub or tree replacements or any other replacement or repair of any magnitude which ordinarily would be expensed in accounting practice and which does not change exterior colors or exterior appearances. The definition of Improvements does include both original Improvements and all later changes to Improvements.

Section 8.7 Limitation of Liability. Neither the Architectural Control Committee nor the members thereof nor Declarant shall be liable in damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications.

Section 8.8 Miscellaneous. No member of the Architectural Control Committee shall be entitled to compensation for services performed pursuant to this Article. The Association may reimburse members of the Architectural Control Committee for reasonable out-of-pocket expenses.

ARTICLE IX

STORM WATER MANAGEMENT

Association shall also provide for maintenance of all erosion and storm water drainage efforts, whether preventative, remedial, routine or otherwise. This includes the maintenance of all storm water and detention ponds or natural areas, the surrounding vegetation, and any drains, pipes and other equipment or apparatus used for handling storm water drainage. Costs for said maintenance are included as part of the base

assessment against each lot and shall be transferrable by the Association to the Owners as part of their annual dues' assessment.

Provided, however, such maintenance obligations shall cease and terminate, or be reduced, at such time as any governmental entity, through a department of public works or some other agency or division, elects to maintain, in whole or in part, the erosion and storm water drainage efforts, or some other person is providing the necessary maintenance. Following any such assumption of maintenance by the governmental entity or other person, the Association may, without obligation, continue to provide maintenance to the extent that the governmental entity or other person fails to provide adequate maintenance, in the opinion of the Board of Directors.

ARTICLE X **GENERAL PROVISIONS**

Section 10.1 Enforcement. The Association, Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, Declarant or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 10.2 Reimbursement of Expenses. Should any proper party, whether the Board, the Association, or Declarant, undertake a legal proceeding to enforce a violation or breach of any of these restrictions, such party shall be reimbursed for any legal expenses, reasonable attorney's fees, court costs or other financial obligations undertaken in enforcing these covenants against the violating party. It is the intention that anyone violating these covenants pay for any expenses undertaken by a proper party in seeking that these covenants are enforced. The violating party must be given a written notice of a violation and given ten days to correct such violation prior to legal proceedings being undertaken against such Owner.

Section 10.3 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 10.4 Effect and Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the Property for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument approved by not less than sixty-six and two-thirds percent (66.67%) of the Lot Owners, and thereafter by an instrument approved by not less than seventy-five percent (75%) of the Lot Owners. Notwithstanding these provisions, this Declaration may be amended by the Declarant

only, without the approval of any other Lot Owner, as long as one Lot or any of the Common Area within the Property is owned by Declarant. Any such amendment must be recorded.

Section 10.5 Amendment Form. If any amendment to these covenants, conditions and restrictions is so approved, each such amendment shall be delivered to the Board of Directors of the Association. Thereupon, the Board of Directors shall within thirty (30) days, do the following:

- (a) Reasonably assure itself that the amendment has been validly approved by the Owners of the required number of Lots. (For this purpose, the Board may rely on its roster of Members and shall not be required to cause any title to any Lot to be examined).
- (b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS
CONDITIONS AND RESTRICTIONS FOR HOLDING MILLS
TOWNHOMES

By authority of its Board of Directors, HOLDING MILLS TOWNHOMES HOMEOWNERS ASSOCIATION, INC. hereby certifies that the following instrument has been duly approved by the Owners of _____ percent of the Lots of HOLDING MILLS TOWNHOMES and is, therefore a valid amendment to the existing covenants, conditions and restrictions of HOLDING MILLS TOWNHOMES.

This the ____ day of _____, _____.

HOLDING MILLS TOWNHOMES HOMEOWNERS ASSOCIATION, INC.

By: _____
 President

- (c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Wake County Registry.

All amendments shall be effective from the date of their recordation in the Wake County Registry, provided, however, that no such instrument shall be valid until it has been indexed in the name of the Association in each Registry. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be

conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots.

Section 10.6 Contract Rights of Association. As long as there is a Class B membership, any contract entered into by or on behalf of the Association shall contain a provision giving the Association or the other party thereto the right to terminate such contract upon the giving of not more than thirty (30) days written notice to the other party or parties.

Section 10.7 Lender's Notice. Upon written request and the payment of any associated administrative fee to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot number or address, any mortgage holder, insurer or guarantor will be entitled to timely written notice of:

- (a) Any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage.
- (b) Any sixty (60) day delinquency in the payment of assessments owed by the Owner of the Lot on which it holds the mortgage.
- (c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- (d) Any proposed action that requires the consent of a specified percentage of mortgage holders.
- (e) The Association's financial statement for the immediately preceding fiscal year.

Section 10.8 Duty of Maintenance. The Owner of each Lot in the Property shall have the duty and responsibility, at such Owner's sole cost and expense, to keep that part of the Property so owned, including improvements, ground and drainage easements or other rights-of-way incident thereto, in accordance with the terms and provisions of the Declaration and in a well-maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (1) Prompt removal of all litter, trash, refuse and waste;
- (2) Watering by means of a lawn sprinkler system or hand watering as needed;
- (3) Keeping exterior lighting and mechanical facilities in working order;
- (4) Keeping lawn and garden areas alive;
- (5) Removing and replacing any dead plant material not included in the Association's responsibilities;
- (6) Complying with all governmental health and police requirements;
- (7) Repainting of Improvements and Repair of exterior damage to Improvements not included in the Association's responsibilities.

Section 10.9 Party Walls. Each wall which is built as part of the original construction of a Townhome upon the Lot and placed on a boundary line between Lots, and all reconstruction or extension of such walls, shall constitute Party Walls. Except as

provided by this Section, the general rules of law regarding Party Walls, lateral support in below-grade construction, and liability for property damage due to negligence or willful acts or omissions, shall apply to Party Walls on the Property and any other land subject to this Declaration. The following shall also apply to the Party Walls:

Easement for Support: Every Lot which contributes to the lateral and/or vertical support of any adjoining Townhome(s) shall be burdened with an easement of support for the benefit of such adjoining Townhome(s).

Sharing of Repair and Maintenance: The cost of reasonable repair and maintenance of a Party Wall shall be shared by the Owners who make use of the wall or benefit therefrom in proportion to such use and benefit.

Construction and Reconstruction of Party Wall: The Owner of any Lot may construct, reconstruct, or extend a Party Wall in any direction (subject to and within the limitation of architectural control, governmental rules or regulations, and other limitations of the Declaration) with the right to go upon the adjoining Lot to the extent necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such Owner shall restore the adjoining Lot to as near the same condition as before the start of such construction as is reasonably practicable.

Weatherproofing: Notwithstanding any other provision of this Section, an owner who, by their negligence or willful act or omission, causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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

Certification by Adjoining Lot Owner that No Contribution is Due: If any Owner desires to sell their Lot, they may, in order to assure a prospective purchaser that no adjoining Owner has a right of contribution as provided in this Article, request the adjoining Owner a certification that no right of contribution exists, whereupon it shall be the duty of each adjoining Owner to make such certification immediately available upon request and without fee or charge to the requesting Owner. However, where the adjoining Owner claims a right of contribution, the certification shall contain a recital of the amount claimed.

Section 10.10 Fines and Suspension of Privileges or Services.

Notwithstanding any provision contained in this Declaration, the Declarant or Board may impose fines on an Owner and suspend an Owner's right and privilege to use certain Common Areas for failure of that Owner, that Owner's lessees, guests, agents, or invitees, to abide by this Declaration, the Rules and Regulations

Section 10.11 Enforcement. If any such Owner or occupant has failed in any of the duties or responsibilities of such Owner as set forth in Article X, Section 10.8 of this

Declaration, then the Board of Directors of the Association or Declarant may give such person written notice of such failure and such person must within ten (10) days after receiving such notice (which notice shall be deemed to have been received upon deposit in an official depository of the United States mail, addressed to the party to whom it is intended to be delivered, and sent by certified mail, return receipt requested), perform the care and maintenance required or otherwise perform the duties and responsibilities of such Owner. Should any such person fail to fulfill this duty and responsibility within such period, then the Association, acting through its authorized agent or agents, or the Declarant, acting through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The Owner of a Lot on which such work is performed shall be liable for the cost of such work together with interest on the amounts expended by the Association or the Declarant in performing such work computed at the highest lawful rate from the date(s) such amounts are expended until repaid to the Association or the Declarant, as the case may be, and for all costs and expenses incurred in seeking the compliance of such Owner with his duties and responsibilities hereunder and shall reimburse the Association or the Declarant, as the case may be, on demand for such costs and expense (including interest as above provided). If such Owner shall fail to reimburse the Association or the Declarant, as the case may be, within thirty (30) days after mailing to such Owner of a statement for such costs and expense by the Association or Declarant, the Association may issue a specific assessment against such Owner pursuant to Article VI, Section 6.5 of this Declaration and shall have all other rights to enforce an action against the owner for said payment.

Section 10.12 Dissolution or Insolvency of the Association. The Association shall be dissolved upon the termination of this Declaration, or upon the written assent given in writing and signed by not less than seventy-five (75) percent of the Members of each class of members, or upon such more restrictive or additional conditions and in such manner as otherwise provided by the laws of the State of North Carolina. Upon dissolution or insolvency of the Association, or upon loss of ownership of the Common Area (once such ownership has been acquired) by the Association for any reason whatsoever (except for exchange or dedication or conveyance of any part or all of the Common Area as allowed by this Declaration or by reason of merger and/or consolidation with any other association as allowed by this Declaration), any portion of the Common Area not under the jurisdiction of the Town of Youngsville and being maintained by the Association, shall be offered to the Town of Youngsville, North Carolina, or to some other appropriate governmental entity or public agency (as determined by the Board) to be dedicated for public use for purposes similar to those to which the Common Area and such assets were required to be devoted by the Association. If the Town of Youngsville or such other appropriate governmental entity or public agency accepts the offer of dedication, such portion of the Common Area and assets shall be conveyed by the Association to the Town of Youngsville or such other appropriate governmental entity or public agency, subject to the superior right of the Owner of each Lot to an easement (if necessary) for reasonable ingress and egress to and from such

Owner's Lot and the public or private street(s) on which such Lot is located, and subject to all other applicable rights of way and easements and subject to ad valorem property taxes subsequent to the date of such conveyance.

In the event that the Town of Youngsville or such other appropriate governmental entity or public agency refuses the offer of dedication and conveyance, the Association may transfer and convey such Common Area and assets to any nonprofit corporation, association, trust or other entity which is or shall be devoted to purposes and uses that would most nearly conform to the purposes and uses to which the Common Area was required to be devoted by this Declaration, such conveyance to be made subject to the rights of Owners and other matters set forth in the immediately preceding paragraph.

ARTICLE XI

USE OF PROPERTY RESTRICTIONS

Section 11.1 Use of Property. No portion of the Property shall be used except for residential purposes incidental or accessory thereto. Each Lot shall be occupied and/or used as follows:

(a) Each Lot, but not to include Common Areas, will be used for residential purposes only, and each Lot shall constitute a building site. No dwelling shall be erected, altered, placed or permitted to remain on any building site other than one Townhome, and no Townhome or Lot shall be subdivided.

(b) No dwelling or other approved structure shall be located on any Lot site nearer to any property line than allowed by County regulations. For the purpose of this covenant, eaves, steps and open porches shall not be considered as part of the building, PROVIDED, however, that this shall not be construed to permit any portion of a dwelling on a Lot site to encroach upon another Lot site.

(c) Dwellings shall be occupied by no more persons than the maximum permitted by law, and by no more than one household or housekeeping unit. One household or housekeeping unit shall be defined as a group of individuals related by blood, marriage, adoption, or guardianship, or not more than two (2) persons not so related and living together as a single housekeeping unit.

Section 11.2 Compliance with Laws. All Owners and other occupants of the Property shall comply at all times with all local, state, and federal laws and regulations applicable to the Property and any improvements thereon.

Section 11.3 Animals. No animals, wildlife, livestock, reptiles or poultry of any kind shall be raised, bred or kept on building site, except that dogs, cats, birds and fish may be kept as household pets, provided that they are not bred or maintained for any commercial purposes. Owners with dogs, cats, birds or fish as household pets will be responsible for their animals and will insure that they are not a nuisance to other Lot owners.

Section 11.4. Antenna. To the extent permitted by law, no satellite dishes, television antennae or other broadcast equipment shall be located on a Lot unless approved

in advance in writing by Declarant or the Architectural Control Committee as to design, appearance and location or pursuant to any architectural guidelines.

Section 11.5 Clotheslines. No exterior clothesline of any type shall be permitted upon any Lot. No outdoor clothes drying or hanging shall be permitted in the Community.

Section 11.6 No Detached or Temporary Buildings. No detached garages, tool or storage sheds, tents, trailers, tanks, temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot.

Section 11.7 Drainage. No Owner or Occupant shall obstruct, place debris in, or redirect the flow of water in or into catch basins, storm sewers, storm drains or drainage areas.

Section 11.8 Entry Features. Owners shall not alter, remove or add improvements to any entry features constructed by the Declarant on any Lot, or any part of the easement area associated therewith without the prior written consent of the ACC and the local municipality.

Section 11.9 Fences. Except as approved by the Declarant, no fence shall be allowed or constructed unless it is white vinyl.

Section 11.10 Firearms. The discharge of firearms on the Property is prohibited; however, the Board shall have no obligation to take action to prevent or stop such discharge.

Section 11.11 Fireworks. The lighting of fireworks is not permitted in the Community.

Section 11.12 Gardens and Play Equipment. No vegetable gardens, hammocks, statuary or play equipment including without limitation basketball goals, shall be constructed, erected or maintained upon any Lot unless the type and location thereof has been previously approved by the ACC. No portable sporting equipment may be installed or used in front of a townhome. No portable sporting equipment may be installed in the street or Common Areas or used in those areas in an unsafe manner or in a manner so as to create a nuisance. Children's play toys and other moveable equipment of any type shall not remain overnight within any front yard of any Lot.

Section 11.13 Outdoor Grills. Outdoor grills must be stored in an enclosed garage (if provided) or rear porch when not in use.

Section 11.14 Hobbies. Any hobbies regularly conducted on any Lot shall not be a nuisance to the neighbors. Any hobby which produces a product for sale is expressly prohibited.

Section 11.15 Landscaping. Landscaping shall be installed on each Lot by the Declarant. Any additional landscaping on any Lot must be approved by the Board or Architectural Control Committee. Owners may not remove trees or any other landscaping from the Lot or Common Areas.

Section 11.16 Leasing. Leasing of Townhomes may be permitted for residential purposes only provided that the leases are in writing, approved by the Board in advance in writing, and for a minimum lease term of six (6) months. All leases shall require that the

tenant acknowledge receipt of a copy of the Governing Documents of the Association. A true copy of the executed Lease, together with such additional information as may be required by the Board, shall be given to the Board within five (5) days of the execution of the Lease and prior to occupancy. No owner may rent a Townhome without the prior approval of the Board and in no event may any one Owner own more than ten (10%) of all the Lots within the subdivision. These provisions shall not apply to Declarant.

Section 11.17 Lighting. Lighting which illuminates the front of homes is permissible provided it does not interfere with the quiet enjoyment of neighboring homes. All lighting not installed by the Declarant is subject to prior written approval by the Board or ACC. No lighting shall be permitted which alters the residential character of the community. The community will be subject to a contract with a local utility provider or other entity providing for installation and operation of street lighting, which requires a continuing monthly payment to the utility by the Association.

Section 11.18 Mail Kiosks. The USPS requires mail kiosks in new developments. Declarant will install mail kiosks in the community for the delivery of mail to all Owners. There will be no curbside delivery and Owner will not install any mailboxes on each individual Lot.

Section 11.19. Motor Vehicles, Boats and Recreation Vehicles. No motor vehicles, except four-wheel passenger vehicles and motorcycles that are road worthy and have current registration, license plates, valid insurance and inspection stickers, may be parked on any Lot or on the Property in designated parking areas. There is a limit of three (3) vehicles per any one Unit. No boats, trailers, jet skis, or other watercraft, motorhomes, camper units, or recreational vehicles whatsoever shall be located on any Lot or the Property. Motorbikes, go-carts and any other motorized vehicles that produce excessively loud noises shall not be allowed in the subdivision. Commercial vehicles and trailers shall not be parked overnight on the Property.

Section 11.20 Nuisances. No noxious or offensive trade or activity shall be carried out on or upon any Lot, nor shall anything be done thereon which may be or become any annoyance or nuisance to the neighborhood. No trade materials or inventories may be stored on the premises. No business activity or trade of any kind shall be conducted on any Lot except that an office may be maintained in a residence if there is not client or customer traffic to the office.

Section 11.21 Parking. There are no assigned parking spaces for any Owner or Tenant within the parking lot servicing all Units and there is no parking allowed behind any of the Lots or in the Stormwater Control Area as shown on the Plat. Further only working vehicles are allowed to be parked in the parking lot and no boats, campers, travel trailers or any other recreational vehicles are allowed to be parked in the parking lot.

Section 11.22 Private Roads. The roads constructed in all phases of this subdivision are private roads and shall be maintained by the Declarant until the Association takes over the streets for maintenance. The costs, maintenance and upkeep of these private

roads shall remain the responsibility of Declarant until they are actually deeded to the Association by Declarant. Once said private roads are owned by the Association, any expenses for the private roads shall become special assessments as against all Owners in a pro rata share. All private roads are to be used by all Owners in order to gain access, egress and ingress to their homes.

Section 11.23 Retaining Walls. If any portion of a common retaining wall or reinforcement is located on a Lot, the Owner is prohibited from installing any improvements or performing any activity on the Lot which may damage, weaken, or compromise the structural integrity of the common retaining wall or obstruct access to the common retaining wall or reinforcement zone. Declarant and Board shall retain a perpetual easement for the maintenance, repair and access to any such common retaining wall and reinforcement zone.

Section 11.24 Setbacks. No building shall be located on any Lot in such a manner that the front, rear, or side Lot setbacks are in not in conformance with the setbacks permitted under the applicable municipal zoning ordinances unless a variance has been obtained from the applicable municipality.

Section 11.25 Sight Distance. All properties located at street intersections shall be landscaped so as not to interfere with a safe sight line across the street and around street corners. No fence, wall, hedge, or planting area shall be placed or permitted in an area where it would create a traffic or sight problem.

Section 11.26 Signs. No signs, banner, billboard or advertisement of any kind including informational signs or contractor signs shall be displayed on any Lot or visible from the exterior of any Townhome, except that Declarant may display such signs on the Property during the Declarant Development Period. Further any Owner is allowed to display either "For Rent" or "For Sale" signs of 18" x 24" in one window of their Townhome. No "For Rent" sign may be displayed in the window of any Townhome by any person other than an Owner or the Declarant. The Architectural Control Committee may issue additional guidelines for the size and appearance of any signs displayed by Owner.

Section 11.27 Solar Panels and Energy Conservation Equipment. Solar panels and other energy conservation equipment shall not be permitted unless they are an integral and harmonious part of the architectural design of the building as determined at the sole discretion of the ACC. Approval to install such equipment may be required from the local municipality.

Section 11.28 Swimming Pools. No swimming pools shall be located on any Lot within the subdivision.

Section 11.29 Termite Control. The Association may at its election procure and pay for termite protection on all buildings, improvements and townhomes. The cost of the termite protection shall then become an expense included in the Association's budget and allocated to the Lots. It shall be the obligation of the Owner to provide access to the townhome for annual termite inspections. The Owner expressly acknowledges that failure to provide access to the townhome for the annual termite inspection may void termite

protection coverage and Owner will then be solely responsible for the costs of repair of any termite damage.

Section 11.30 Trash Removal. All garbage and other refuse must be kept in stable, sanitary containers which must be cleaned on a regular basis. Such garbage and refuse must be picked up and disposed of at least weekly. Storage facilities for garbage, trash and other refuse shall be out of sight of streets in the subdivision, either by placing such receptacles in the garage or rear of the residence with screening provided.

Section 11.31 Townhome Exteriors. Any change to the exterior of the townhome including color or finish of any improvement on the Lot must be approved by the ACC and may also require the approval of the local municipality.

Section 11.32 Window Air Conditioners. No window air conditioning units shall be installed on any building within the Property.

Section 11.33 Windows and Doors. The outside of all window treatments which can be seen at any time from the outside of any structure located on a Lot must be white or off-white. No temporary materials such as linens, newspapers or similar materials shall be used as window treatments. No reflective materials shall be used on any windows for sun screens, blinds, shades or for any other purpose nor shall anything be hung, painted or displayed on the outside of the windows (or inside if visible from the outside) or placed on the outside surfaces of doors of any of the Dwellings or any other Improvements, and no awnings, canopies or shutters (except for those heretofore or hereinafter installed by Declarant) shall be affixed or placed up on the exterior walls or roofs of any Dwellings or any other Improvements, or any part thereof, nor relocated or extended, without the prior written consent of the Board of Directors.

Section 11.34 Unlawful/Illegal Activities. Any activity that violates local, state, or federal laws or regulation is prohibited; however, the Board shall have no obligation to take enforcement action in the event of such a violation.

Section 11.35 Utility Lines. No overhead utility lines for telephone, electric, cable or other services shall be permitted in the community unless prior written approval is obtained from the Board or ACC. Temporary power lines as required during construction by the Declarant shall be permitted.

Section 11.36 Vehicle Advertising. Any vehicle used as a primary vehicle of a Tenant/Owner which has advertising of any type, whether a display, a name or logo painted on the vehicle or vehicle wrap, an attached sign, or otherwise, is allowed to be parked in the parking lot. Vehicles of more than 1 ton in weight or vehicles with lift baskets or storage racks or vehicles with more than 4 wheels are not allowed to be parked within the parking lot area. Absolutely no vehicles, boats or any other type of personal property shall be placed in the front or side yard of any residence with a "for sale" sign upon it, any other such sign, or information which might indicate that the property is for sale.

ARTICLE XII
RULES AND REGULATIONS

Section 12.1 Rules and Regulations. In addition to the Use of Property Restrictions stated in this Declaration, use and occupancy of the Lots and Common Areas shall be subject to the Rules and Regulations, which are intended to govern day-to-day use and occupation of the Lots and Common Areas. The initial Rules and Regulations for the HOLDING MILLS TOWNHOMES are set forth below. In order to adapt and respond to changing and unforeseen circumstances affecting the HOLDING MILLS TOWNHOMES Community, Declarant, the Association, and the Owners must have the ability to change the Rules and Regulations in an expedited and inexpensive manner. Only these Rules and Regulations may therefore be amended, supplemented, or rescinded and restates as follows:

- (a) **By the Declarant:** During the Declarant Development Period, Declarant shall have the unilateral right to amend, supplement, or rescind and restate the Rules and Regulations, without prior notice to the Association or to other Owners.
- (b) **By the Board:** The Board may amend, supplement, or rescind and restate the Rules and Regulations by sending notice by mail to all Owners concerning any such proposed action at least five (5) business days prior to the Board meeting at which such proposed action is to be considered. Owners shall have a reasonable opportunity to be heard at a Board meeting prior to said proposed action being taken. The Board's decision shall be final.
- (c) **By the Owners:** Owners representing more than sixty-six percent (66%) of the total votes in the Association, at a special meeting called for such purpose, may amend, supplement, or rescind and restate the Rules and Regulations
- (d) **Conflicts:** Nothing in this section regarding the Rules and Regulations shall modify, repeal, or expand any provision in this Declaration. In the event of a conflict between the Declaration and the Rules and Regulations, the Declaration shall control.

Section 12.2 Townhome Common Area Administrative Rules. The Board may issue and enforce administrative Rules and Regulations governing the use of the Common Areas without notice or the Members or any hearing.

ARTICLE XIII
RIGHTS AND EASEMENTS GRANTED OR RESERVED BY DECLARANT

Section 13.1 General Easements. The Declarant reserves for itself, the Association and their respective successors, assigns and designees, a right-of-way and perpetual, nonexclusive easement for ingress and egress and to erect, maintain and use utilities and all of the Property, including Lots and Common Areas, shall be subject to such easements for private roads or drives, public streets, driveways, walkways, parking areas, street lighting poles, water lines, sanitary sewers, storm drainage facilities, gas lines, cable communication transmission, telephone and electric power lines and other public utilities, whether above or below ground, as shall be established by the Declarant, by its predecessor in title prior to the subjecting of the Property to this Declaration, or as shown on any recorded subdivision map of any portion of the Property. The Association shall have the power and authority to grant and establish upon, over, under and across the Common Areas conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Property. Sight easements, if any, as may be shown upon any recorded subdivision map of the Property are hereby reserved by the Declarant.

An easement is hereby established for the benefit of any agency or utility performing any of the following services over all Common Areas and over an area of all Lots within the Property five (5) feet from the right-of-way line of any street or roadway established within the Property hereby or hereafter established for the setting, removal and reading of water and electricity meters, the maintenance and replacement of water, electricity, sewer and drainage facilities. In addition, thereto, an easement is hereby established over all of the Property for the benefit of the County of WAKE and all other agencies and personnel performing any of the following duties and services for the fighting of fires, mail delivery, collection of garbage ambulance services and police protection.

Section 13.2 Easement for Utilities. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the front and rear ten feet of each Lot and five feet on each side line unless these are in excess of such distances on recorded plats, in which case the plats shall control. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction or flow of drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Section 13.3 Entry Sign. Declarant reserves a sign or entry feature easement as shown on Book of Maps 2021, Page 51-52, Wake County Registry. This easement shall be conveyed to the Association as hereinbefore set forth.

Section 13.4 Television/Cable/Internet Easement. Declarant reserves for itself, and its successor and assigns, an exclusive easement for the installation, maintenance and supply of television, cable, and internet cables within the rights of way and easement areas depicted upon any plat of any portion of the Property or within any easement reserved by this Declaration.

Section 13.5 Platting and Additional Restrictions. Declarant shall be at any time and from time to time, entitled to plat or re-plat all or any part of the Property owned by it and to file any covenants and restrictions or amendments to this Declaration with respect to any undeveloped portion or portions of the Property owned by Declarant without joinder of any additional Owner(s).

Section 13.6 Drainage Areas. Declarant reserves the right for the benefit of the Declarant and the Association and their respective successors and assigns, a perpetual easement across the Common Area and Lots for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of the affected property, reasonable steps shall be taken to protect and repair such property. Notwithstanding the above, the exercise of such right shall not materially adversely affect the drainage flows over and across and Lot or the Common Area without the prior written consent of the Owner of such Lot, the Declarant, or the Association, respectively.


Section 13.7 Temporary Structures. Declarant reserves the right for itself, its successors and assigns, to erect and maintain temporary structures, trailers and model homes and any other structure upon Lots owned by the Declarant, which it may deem advisable for development purposes and to do all acts deemed necessary in connection with the construction and sale of improvements located on the Lots and in the community.

Section 13.8 Common Retaining Wall and Reinforcement Zone Easement. Declarant hereby reserves for the Declarant and the Association an easement over and upon those portions of the Property and any Lot on which any part of a Retaining Wall or Reinforcement Zone supporting a Retaining Wall is located. The Declarant or Association is hereby permitted to inspect, repair, and replace the Retaining Wall and remove any improvements, materials or obstructions which may impede access to the Retaining Walls or Reinforcement Zone or violate any restrictions herein.

<<REMAINDER OF PAGE INTENTIONALLY BLANK>>

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto caused this Declaration to be executed, this 15th day of January, 2021.

**11 INVESTMENTS, LLC,
A North Carolina Limited Liability
Company**

By: 
David Williams, Jr. Member

NORTH CAROLINA
WAKE COUNTY

I, a Notary Public of Franklin County and State aforesaid, certify that David Williams, Jr., personally came before me this day and acknowledged that he is a Member/Manager of 11 INVESTMENTS, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by a Member/Manager.

Witness my hand and official stamp or seal, this 15th day of January, 2021.

Alicia H. Hester
Alicia H. Hester, Notary Public

My commission expires: 06/30/2022

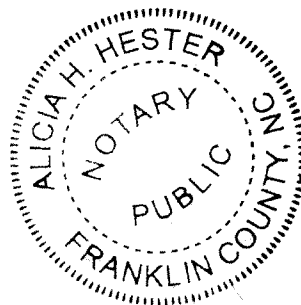


EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

BEING all of Lots 1 through 40 along with all common areas, including any stormwater areas and the private right of way drive, all as shown on that plat entitled "Final Plat of Holding Mills Townhomes" dated May 8, 2020, revised December 31, 2020 and recorded in Plat Book 2021, Page 51-52, Wake County Registry.

Parcel Identifier/Tax Account: 108127

(See Deed Book 17145 Page 464, Wake County Registry for prior deed reference.)