

**AMENDMENT to the COVENANTS, CONDITIONS AND
RESTRICTIONS OF
PARKHILL SUBDIVISION**

This Amendment of Covenants, Conditions and Restrictions ("Declaration") is made this 20th day of June, 2012, by **PARKHILL INVESTORS, LTD.**, a Virginia corporation, hereinafter to as "Original Declarant", **JAMES A. SHENK, TRUSTEE** and **EILEEN M. SHENK, TRUSTEE** of the **SHENK FAMILY REVOCABLE LIVING TRUST**, under agreement dated August 31, 1995, **DOROTHY A. SCHEFFEL**, by Linford L. Stutzman, her Attorney-in-Fact, **JERRY L. KAUFFMAN** and **JOAN G. KAUFFMAN**, husband and wife, **STEPHEN K. RITTENHOUSE** and **RONDA S. RITTENHOUSE**, husband and wife, and **SAUDER BUILDERS, INC.**, a Virginia corporation, all to be indexed as GRANTORS.

RECITALS:

1. Original Declarant is the owner of certain lots in the City of Harrisonburg, Virginia, being known as Parkhill Subdivision, which subdivision plat is recorded in the Clerk's office in the Circuit Court of

Rockingham County, Virginia, in Deed Book 3349, page 591.

2. Restrictive Covenants applicable to Parkhill Subdivision consisting of Lots 1 through 13, 22 - 24, single family lots (all inclusive) and Lots 14A & B through 21A & B duplex lots, (all inclusive) were recorded after the plat and dedication of said subdivision in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, in Deed Book 3378, page 440 (hereinafter referred to as the "Original Declaration").

3. Parkhill Investors, Ltd. is the owner of twenty-seven (27) lots.

4. James A. Shenk and Eileen M. Shenk, Trustees of the Shenk Family Revocable Living Trust under agreement dated August 31, 1995, is the owner of Lot 1, Parkhill Subdivision, acquired by deed dated September 10, 2008, recorded in the aforesaid Clerk's Office in Deed Book 3390, page 313.

5. Stephen K. Rittenhouse and Ronda S. Rittenhouse, husband and wife, are the owners of Lot 7, Parkhill Subdivision, acquired by deed dated June 11, 2010, recorded in the aforesaid Clerk's Office in Deed Book 3725, page 548.

6. Dorothy A. Scheffel is the owner of Lots 16A and 16B, Parkhill Subdivision, acquired by deed dated December 20, 2011, recorded in the

aforesaid Clerk's Office in Deed Book 3982, page 13.

7. Jerry L. Kauffman and Joan G. Kauffman, husband and wife, are the owners of Lot 12, Parkhill Subdivision, acquired by deed dated December 22, 2011, recorded in the aforesaid Clerk's Office in Deed Book 3998, page 524.

8. Sauder Builders, Inc., a Virginia corporation, is the owner of Lot 22, Parkhill Subdivision, acquired by deed dated February 6, 2012, recorded in the aforesaid Clerk's Office in Deed Book 3999, page 626.

9. It is the intention that a new Restrictive Covenant Article Two, be hereby modified.

WITNESSETH:

NOW, THEREFORE, the Grantors do hereby covenant and agree for themselves and their successors and assigns, that every lot shown on the Benner plat shall be sold and held by the Grantors, and their successors, purchasers, heirs, devisees and assignees, subject to the Original Declaration, as modified herein, all of which shall run with the title to the lots:

AMENDED COVENANTS

1. Covenant Article Two of the Original Declaration shall read as follows

(the amended text appearing in italics):

ARCHITECTURAL REVIEW COMMITTEE

Section 1. Composition of Architectural Review Committee. The Architectural Review Committee, hereinafter referred to as the "Committee", shall be composed of the developer of the subdivision, namely, Ronald J. Shenk, along with James A. Shenk and Linda S. Shenk. The Committee shall record all actions taken. If any one member resigns or otherwise withdraws from the Committee, the remaining named Committee members may appoint a replacement. The Committee's approval or disapproval as herein required shall be in writing. To approve or disapprove shall require two or more affirmative votes. In the event that the Committee fails to approve or disapprove the plans and specifications within thirty (30) days after they have been submitted to it, the plans and specifications shall be deemed to have been approved by the Committee. Upon all Lots within *the* subdivision being sold and residences built on all Lots, but not longer than *fifteen (15)* years from the date of these Restrictive Covenants, the Committee shall be dissolved.

Section 2. Authority of Architectural Review Committee. No home,

building, fence, wall, pool (either above ground or in ground), or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change, including paint and trim, or alteration therein be made until the plans and specifications showing the nature, kind, size, shape, height, materials, color of paint, and location of the same shall have been submitted to and approved in writing as to harmony of design and location in relation to surrounding structures and topography by the Committee. No dwelling shall be erected, placed, or altered on any Lots until two (2) sets of the construction plans and specifications and a plat showing the location of the proposed dwelling have been submitted in writing and approved by the Committee as to external design and materials, harmony of external design of the proposed dwelling with existing dwellings, and as to location on the Lot of the proposed dwelling. In the event the Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 3. Architectural Review Committee Discretion. The Committee shall have full, absolute, and complete discretion to approve or

disapprove proposed dwellings on any Lots, and in the exercise of its discretion, the Committee shall not be bound to approve any proposed dwelling solely because such proposed dwelling complies with the other restrictions and covenants herein contained or are equal in cost or value to dwellings on other Lots; provided, however, the Committee shall not be empowered to permit any use of any of said Lots in violation of the provisions of these Restrictive Covenants.

Section 4. Dwelling Requirements.

1. Lots 1 - 13, inclusive, and Lots 22, 23 and 24 shall be used for single family residences. On each of these lots a single story dwelling, exclusive of porches, garages and breezeways, shall have a minimum of 1800 square feet finished living area. A two story dwelling, exclusive of porches, garages and breezeways shall have a minimum of 1000 square feet of finished living area on the first (main) floor. A split foyer or one and a half story dwelling, exclusive of porches, garages and breezeways, shall have a minimum of 1800 square feet of finished living space. *A dwelling having a finished living level on the main floor and a lower level that is fully exposed on only one (1) side shall have a minimum of one thousand five hundred*

(1,500) square feet of finished space on the main (upper) floor and a total of two thousand (2,000) square feet of finished space. If the exposed lower level faces a street, the dwelling shall look like a two-story house.

2. Lots 14 - 21, (A & B) inclusive, shall be for duplexes. A duplex dwelling, exclusive of porches, garages and breezeways shall have a minimum of 1200 square feet finished living area (i.e. each lot). However, notwithstanding the above, an owner of both the "A" lot and "B" lot of any Lots 14 - 21, shall be permitted to vacate the interior lot line, making it a single lot in order to build a dwelling that has a main primary residential living unit and also has one apartment. The primary residential unit, in this event, shall have a minimum of one thousand five hundred (1,500) square feet and the apartment shall have a minimum of five hundred (500) square feet. The Architectural Control Committee shall have the right and authority to require additional square footage above the minimums set out herein, in its sole discretion, taking into consideration design, layout, and such other factors it deems relevant.

2. All other Restrictive Covenants shall remain as set forth in the Original Declaration and are hereby ratified and reaffirmed.

This Amendment to Covenants, Conditions, and Restrictions of Parkhill Subdivision may be executed in any number of counterparts, each of which shall be an original, but all of which shall, together, constitute one and the same instrument.

IN WITNESS WHEREOF, Parkhill Investors, Ltd, a Virginia limited liability company, James A. Shenk and Eileen M. Shenk, Trustees of the Shenk Family Revocable Living Trust under agreement dated August 31, 1995, Dorothy A. Scheffel, Jerry L. Kauffman and Joan G. Kauffman, Stephen K. Rittenhouse and Ronda S. Rittenhouse, and Sauder Builders, Inc., have caused this Amendment to be signed in their names and behalf as thereunto duly authorized.

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**DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
PARKHILL SUBDIVISION**

THIS DECLARATION, made this 13th day of August, 2008, by **PARKHILL INVESTORS, LTD.**, a Virginia corporation, (Grantor), hereinafter referred to as "Declarant," the owner of certain lots of land situate in the City of Harrisonburg, Virginia, shown and designated on a plat entitled, "**PARKHILL SUBDIVISION**" City of Harrisonburg, Virginia, dated December 3, 2007, and revised April 4, 2008, and made by Hal T. Benner, L.S., which plat is recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, in Deed Book 3349, page 591.

WITNESSETH:

WHEREAS, Declarant will convey the said Lots, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth; and

WHEREAS, United Bank has a lien on the property that is subject to this Declaration. United Bank and its Trustee join in the Declaration to evidence their consent; and

NOW, THEREFORE, Declarant hereby declares that the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property and insuring a uniform mode of development. These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any rights, title, or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE ONE

DEFINITIONS

Section 1. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of these Covenants. Remaining land of Declarant shall not be subject to these covenants unless expressly stated by Declarant upon the recordation of any future subdivision by Declarant.

Section 2. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of roads. Lots 14 thru 21 (A & B) shall be duplex Lots, with each constituting a Lot.

Section 3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simply title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. "Family" shall mean two or more persons all of whom are related to each other by blood, marriage, or adoption.

ARTICLE TWO

ARCHITECTURAL REVIEW COMMITTEE

Section 1. Composition of Architectural Review Committee. The Architectural Review Committee, hereinafter referred to as the "Committee", shall be composed of the developer of the subdivision, namely, Ronald J. Shenk, along with James A. Shenk and Linda S. Shenk. The Committee shall record all actions taken. If any one member resigns or otherwise withdraws from the Committee, the remaining named Committee members may appoint a replacement. The Committee's approval or disapproval as herein required shall be in writing. To approve or disapprove shall require two or more affirmative votes. In the event that the Committee fails to approve or disapprove the plans and specifications within thirty (30) days after they have been submitted to it, the plans and

specifications shall be deemed to have been approved by the Committee. Upon all Lots within subdivision being sold and residences built on all Lots, but not longer than five (5) years from the date of these Restrictive Covenants, the Committee shall be dissolved.

Section 2. Authority of Architectural Review Committee. No home, building, fence, wall, pool (either above ground or in ground), or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change, including paint and trim, or alteration therein be made until the plans and specifications showing the nature, kind, size, shape, height, materials, color of paint, and location of the same shall have been submitted to and approved in writing as to harmony of design and location in relation to surrounding structures and topography by the Committee. No dwelling shall be erected, placed, or altered on any Lots until two (2) sets of the construction plans and specifications and a plat showing the location of the proposed dwelling have been submitted in writing and approved by the Committee as to external design and materials, harmony of external design of the proposed dwelling with existing dwellings, and as to location on the Lot of the proposed dwelling. In the event the Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 3. Architectural Review Committee Discretion. The Committee shall have full, absolute, and complete discretion to approve or disapprove proposed dwellings on any Lots, and in the exercise of its discretion, the Committee shall not be bound to approve any proposed dwelling solely because such proposed dwelling complies with the other restrictions and covenants herein contained or are equal in cost or value to dwellings on other Lots; provided, however, the Committee shall not be empowered to permit any use of any of said Lots in violation of the provisions of these Restrictive Covenants.

Section 4. Dwelling Requirements.

1. Lots 1 - 13, inclusive, and Lots 22, 23 and 24 shall be used for single family residences. On each of these lots a single story dwelling, exclusive of

porches, garages, basements, and breezeways, shall have a minimum of 1800 square feet finished living area. A two story dwelling, exclusive of porches, garages, basements, and breezeways shall have a minimum of 1000 square feet of finished living area on the first (main) floor. A split foyer or one and a half story dwelling, exclusive of porches, garages, basements, and breezeways, shall have a minimum of 1800 square feet of finished living space.

2. Lots 14 - 21, (A & B) inclusive, shall be for duplexes. A duplex dwelling, exclusive of porches, garages, basements and breezeways shall have a minimum of 1400 square feet finished living area (i.e. each lot).

ARTICLE THREE

PRIVATE ACCESS EASEMENT

1. There is hereby granted, reserved and conveyed to each of the following Lot Owners, their heirs, successors and assigns, a right-of-way twenty (20) feet in width as shown upon the plat recorded herewith for Parkhill Subdivision, to be used as the exclusive means of ingress and egress to and from Smith Avenue to the aforesaid lots. The Owners of said Lots shall be responsible for the maintenance, upkeep, repair, resurfacing, snow removal, etc. of the roadway, slopes and ditches within the aforesaid easement. The access easements are as follows:

(a) An ingress and egress easement twenty (20) feet in width centered on the property line between Lot 1 and Lot 2 for the exclusive benefit of Lot 1 and Lot 2 and Lots 4 & 5, if either or both Owners desire to use the easement as access to the street.

(b) An ingress and egress easement twenty (20) feet in width centered on the property line between Lot 8 and Lot 9 for the exclusive benefit of Lot 8 and Lot 9 and Lots 7 and 10, if either or both Owners desire to use the easement as access to the street.

(c) An ingress and egress easement twenty (20) feet in width centered on the property line between Lot 12 and Lot 13 for the exclusive benefit of Lot 12 and 13 and Lots 11 & 14B, if either or both Owners desire to use the easement as access to the street.

2. Each Lot Owner shall share the cost of maintenance and repair apportioned according to each Lot Owners use. If residences are built on both lots, then the use shall be presumed equal and the costs of maintenance and repair shall be shared equally. If the Lots on the dedicated street also use a portion of the easement, then the Lot Owner shall pay the cost of maintenance and repair proportion to their use.

3. The driveway shall be constructed from Smith Avenue within the twenty (20') foot right-of way. Said road shall be constructed in a good workman-like manner, meeting standards for a common driveway with asphalt paving or concrete and appropriate ditching and grading or curbing along the shoulder(s) of the roadway to provide adequate storm water management.

4. The Owners of the aforesaid Lots shall determine among themselves the standard of maintenance and upkeep that they desire for the roadway. In the event of disagreement, the cost of maintenance repair, upkeep and snow removal shall be divided evenly. Said apportioned cost shall constitute an assessment against the Lot and if unpaid for more than thirty (30) days, may be reduced to judgment and a lien against the property. In such event, the defaulting Lot Owner shall bear the cost of any enforcement, attorneys' fees and other costs associated with said collection.

ARTICLE FOUR

USE AND DESIGN **RESTRICTIONS AND REQUIREMENTS**

1. No Lot shall be used, except for single family residential purposes, or for builders' construction sheds and sales and administrative offices during the construction and sales period, and not more than one single family principal

building shall be permitted on any residential Lot shown on said plat. No such Lot shall be resubdivided so as to produce a building site of less area or width than the minimum required by the Subdivision Ordinance of the City of Harrisonburg, Virginia. Nothing in this paragraph shall prevent Owners from making minor changes to a Lot line for the purpose of adjusting a Lot line between adjoining Lots. Notwithstanding the above, Lots may be used as a single family residence or for not more than three (3) persons that are unrelated by blood or marriage.

2. No building, garage, trailer, double wide trailer, modular home, prefab home, townhouse, duplex, multiple family dwelling, tent, basement, shack, driveway, or structure may be erected, built, or permitted to remain on any Lot and used as a residence, temporary or permanent.

3. No one shall erect, make, establish, keep, or maintain on any Lot a mobile home (whether designated as a "trailer home" or "manufactured home" or by other terminology) or any mobile structure used, or designated for use (even though not in actual use) as a residence or sleeping quarters.

4. Only one dwelling may be constructed upon said Lot.

5. All dwellings shall have **paved** or **concrete** driveways, which driveways shall be completed within six months of a certificate of occupancy being issued for that dwelling.

6. No fence, wall, dog kennels, or storage buildings may be constructed in the front yard on any Lot. Required fencing around in-ground swimming pools may include either wrought iron, vinyl or solid wood fencing, which fencing the Committee, must approve, in style and material, as set forth herein. Other than around swimming pools, there shall be no solid wood fencing or metal storage buildings in the back yard. Back yards may be fenced with split rail, vinyl or picket fencing, or something similar, which must be approved by the Committee.

7. No dwelling shall be erected or placed on any Lot that has an exterior construction of stucco or concrete block aggregate, and no cinder block shall be exposed in the foundation, parged or unparged. Faux stucco (efas), such as Drivet and similar products, may be used on the exterior. Chimneys and exposed

foundations shall be constructed or veneered with brick, stone, or faux stucco, unless the foundation is a concrete poured foundation, in which case, up to 24 inches above ground level may be exposed, if the exposed portion has a brick pattern.

8. All Lots, whether occupied or unoccupied, and any improvements placed on the Lots shall at all times be maintained in such a manner as to prevent their becoming unsightly by reason of unattractive growth on such Lot or the accumulation of rubbish or debris.

9. No improvement on any Lot which has been partially or totally destroyed by fire or otherwise shall be allowed to remain in such state for more than three months from the time of such destruction.

10. The exterior of all buildings must be completed within nine (9) months after start of construction or placement.

11. No unlicensed and/or uninspected vehicle shall be permitted on any Lot.

12. No, trailer, bus, commercial equipment, disabled or unlicensed vehicle or material portion thereof, or commercial vehicle larger than 3/4 ton, may be parked on any street or parking area or Lot within said land area, unless, in the case of commercial equipments, it shall be temporarily within such subdivision for the purpose of performing work therein. Furthermore, boats, travel trailers, motor homes and recreational vehicles may not be parked on any street, driveway, Lot, or parking area unless in a garage. Occasional parking of a boat, motor home or recreational vehicle while in use or in preparation for use shall not be deemed to be a violation of this restriction.

13. No noxious or offensive use or activity shall be carried on upon any Lot, or parking area, nor shall any practice be engaged in by the owners of the Lots, their tenants, agents, guests, or assigns, that shall become an annoyance or a nuisance to the neighborhood.

14. Exterior clotheslines or hanging devices shall be allowed upon any Lot if located in an area that is not readily visible to neighbors and the type and location is approved by the ACC, and no antenna shall project above the surface of the roof, unless the location and type have been approved by the Committee.

15. No sign of any kind shall be displayed on any Lot, except one sign of not more than five (5) square feet advertising the property for sale or rent, except signs used by the developer and its agents to advertise the property during the construction and sales period.

16. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other usual household pets may be kept, provided that they are not kept, bred, or maintained for commercial or charitable purposes, or in unusual numbers. All animals must be confined, to an area approved by the Committee, in the rear of the Lot. No dogs may be kept on a chain nor are such animals allowed to be kept outside on a permanent basis.

17. No trash, garbage or other refuse shall be burned upon the premises except within the interior of the residence, except that the builder or developer may burn debris for the purpose of cleaning the land or preparing any dwelling for occupancy. None of said Lots shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary and closed containers and all incinerators or other containers shall be appropriately screened from view of any street or road on which any of said Lots front.

18. All Lots shall be mowed and maintained at all times.

19. No hedge shall be planted or permitted to grow over three and one-half (3½) feet high along the sides(s) or front property line, nor shall any growth be permitted by any Lot Owner or tenant to extend beyond his property line.

20. The Committee may, in its sole discretion, permit satellite television antennas, commonly known as "dishes," upon said Lots with the prior approval of style and placement. No dish shall exceed 24" in total width.

21. Every violation of the covenants contained herein is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable thereto, and such remedies shall be deemed cumulative and not exclusive.

22. Inasmuch as the enforcement of the provisions hereof is deemed essential for the implementation and preservation of the general plan of development, and for the protection of the undersigned and all of the Owners and inhabitants of said subdivision, it is hereby declared that any violation of the provision hereof shall constitute irreparable harm not adequately compensable by recovery of damages, and any person, firm or corporation shall be entitled in addition to all other remedies, to relief by way of injunction for enforcement of the provisions hereof.

23. The cost and expenses incidental to the abatement of any violation hereof, and the removal and correction of any offending structure or condition shall be paid by the Owners of the offending property, and the amount thereof until paid shall constitute a lien upon such offending property, in favor of the injured party, inferior only to such liens as prescribed in Section 55-516 of the Code of Virginia, as amended.

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ARTICLE FIVE

EASEMENTS

Section 1. Utility Easements.

(a) Easements for installation and maintenance of utilities, an existing Harrisonburg Electric Commission easement, walkways, drainage facilities and easements, slope easements, sanitary sewer, water line, and access to all Lots are reserved as shown on the plat recorded herewith. Easements for utilities and maintenance of utilities are reserved over the Lots in Parkhill Subdivision as necessary for the benefit of said Lots, ten (10') feet in width centered on all interior lot lines and ten (10') feet in width along and adjacent to all front, back and exterior lot lines. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may obstruct or interfere with the installation and maintenance of said utilities or access to Lots. The easement area within each Lot shall be maintained constantly by the owner of said Lot, except those easements for which a public authority, utility company or municipality is responsible.

(b) There is located on the centerline between Lots 3 and 4, 6 and 7, a fifteen (15') foot Private Utility Easement and on Lot 10 and Lot 11, a ten (10') foot Private Utility Easement and on Lot 14A a five (5") foot Private Utility Easement and on Lot 11 a Private Access Easement for the benefit of all Lots of Parkhill Subdivision.

Section 2. Declarant's Easement to Correct Drainage. For a period of two (2) years from the date of submission of each Lot to this Declaration, the Declarant reserves an easement and right on, over, and under the ground within each Lot to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety, and appearance. Such right expressly includes the right to cut any trees, bushes, or shrubbery, to perform any grading of the land, or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as nearly as is practicable. The Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice.

Section 3. Construction Easements and Rights. Notwithstanding any provision of this Declaration or of any Supplementary Declaration, so long as the Declarant or Builders are engaged in developing or improving any portion of the Properties, the Declarant and Builders and their employees, agents, and assigns shall have an easement of ingress, egress, and use over any portion of the Properties not conveyed as a Lot to an Owner for occupancy for (1) movement and storage of building materials and equipment, (2) erection and maintenance of directional and promotional signs, and (3) conduct of sales activities, including maintenance of model Units. Such easement shall be subject to such rules as may be established by Declarant to maintain reasonable standards of safety, cleanliness, and general appearance of Properties.

Section 4. Easement for Governmental Personnel. A right of entry on any Lot is hereby granted to law enforcement officers and fire and rescue personnel as is needed to carry out their duties, including enforcement of cleared emergency vehicle access.

ARTICLE SIX

PARTY WALLS- DUPLEX LOTS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding the party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. 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 in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, an Owner who has used the wall may restore it, and if the other Owner thereafter makes use of the wall, they shall

contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the rights of any such Owner regarding liability for negligent or willful acts or omissions.

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

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

Section 6. Arbitration. In the event of any dispute arising concerning any provisions of this Declaration, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator.

Section 7. Easements. Each Lot shall be subject to an easement for encroachments created by the construction, settling and overhangs of structures designed or constructed by the Declarant. A valid easement for said encroachments and the maintenance of same, so long as it stands, shall and does exist. In the event that the homes on one or more Lots shall be partially or totally destroyed, and then rebuilt, the owner of the Lots so affected agree that minor encroachments of parts of the adjacent homes due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist. Every portion of a building contributing to the support of an abutting building shall be burdened with an easement of support for the benefit of such abutting building.

ARTICLE SEVEN

GENERAL PROVISIONS

Section 1. Enforcement. 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 of 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 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions that shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Owner of any Lot subject to the Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be properly recorded.

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